

Fatal shooting of Donald Ineson to defend others legally justified

Summary of the Incident

1. On 25 November 2018, Police shot and killed Donald Ineson after a domestic incident at his home in Darfield.
2. Mr Ineson's wife had called 111 after he pointed a shotgun at her during an argument. Mrs Ineson locked her husband out of the house, then hid in a bathroom with their 11 and 13 year old children when she believed Mr Ineson was shooting at the front door to gain entry.
3. Two local Police officers armed themselves with pistols and rifles and went directly to the address. As they approached the house on foot, the officers saw Mr Ineson was about to leave in his car and ordered him to stop. Mr Ineson accelerated out of his driveway, striking one of the officers. The officers fired a total of 10 shots at Mr Ineson as he drove away.
4. Mr Ineson drove about 500 metres before turning around, driving back a short distance and pulling over to the side of the road. About 18 minutes later, once more officers had arrived, they approached Mr Ineson's car and found him dead in the driver's seat.
5. A scene examination found six bullets had hit the back of Mr Ineson's car and a bullet fragment had struck Mr Ineson's upper left back, causing a fatal chest injury.

Investigations

6. Police investigated the incident and took legal advice from the Crown Solicitor. They ultimately concluded they could not prove any criminal charge against the officers to the necessary criminal standard of proof (beyond a reasonable doubt). They believed the officers would likely succeed in arguing that they were justified in shooting at Mr Ineson in defence of another (section 48 of the Crimes Act 1961) or to prevent his escape (section 40 of the Crimes Act). Additionally, they said there was insufficient evidence for prosecution as they could not establish which of the two officers fired the fatal shot.

7. Police also notified the Authority of this incident, which we independently investigated. The Authority's investigation is not for the purpose of determining whether the officers are criminally liable for their actions. Our task under section 27(1) of the Independent Police Conduct Authority Act 1988 is to:

“form an opinion on whether or not any decision, recommendation, act, omission, conduct, policy, practice, or procedure which was the subject matter of the investigation was contrary to law, unreasonable, unjustified, unfair, or undesirable”.

8. In forming our opinion, we adopt a standard of proof that is lower than the criminal standard. That is because our task relates to oversight of Police conduct, not the application of the criminal law. In matters alleging serious misconduct by officers, we are always mindful that the strength of the evidence upon which we base that opinion must be high. That said, we use the same standard of proof applied in the civil courts in New Zealand – the balance of probabilities (which means more likely than not).
9. As the law currently stands, the Authority's opinion is not binding, nor can the Authority take any action in respect of its findings other than to make recommendations to the Commissioner of Police.

Issues examined by the Authority

- Issue 1:** Was the initial Police response to this incident appropriate?
- Issue 2:** Were Officers A and B justified in shooting at Mr Ineson?
- Issue 3:** Should Police have attempted to provide medical assistance to Mr Ineson more quickly than they did?

The Authority's Findings

10. The Authority found Officers A and B were legally justified, under section 48 of the Crimes Act, in shooting at Mr Ineson to defend the public at large and other Police officers.
11. We also concluded that:
- 1) the initial Police response to Mrs Ineson's 111 call was appropriate;
 - 2) Officers A and B complied with policy when arming themselves; and
 - 3) the cautious manner in which the Police approached Mr Ineson's car was reasonable. Sadly, he died before they could provide medical assistance.

Analysis of the Issues

ISSUE 1: WAS THE INITIAL POLICE RESPONSE TO THIS INCIDENT APPROPRIATE?

Mr Ineson's background

12. Mr Ineson was a farm worker with a strong work ethic who was suffering from severe back pain. He took prescribed pain relief but still found it difficult to walk. His condition had deteriorated following recent spinal surgery and he was unable to work. He had held a firearms licence since 1996.

Information provided in 111 calls

Mrs Ineson's 111 call

13. At 4.03pm on Sunday 25 November 2018, Mrs Ineson called 111. After identifying herself and providing her address, she told the call taker she and her husband *"just had a bit of an argument and he's got the shotgun out and he pointed it at me"*. She went on to say Mr Ineson was outside, and she had locked herself and their two children in the house. The call taker immediately notified the Police Southern Communications Centre (SouthComms) dispatcher.
14. Mrs Ineson told the call taker she thought Mr Ineson was going to shoot himself. She then became upset after hearing two gunshots and said: *"Oh my god he's done it already"*.
15. The call taker instructed Mrs Ineson to stay on the phone and to specify where Mr Ineson was on the property. Mrs Ineson said he was on the front lawn, but she could not see him. Within minutes of hearing the shots, Mrs Ineson realised her husband was trying to open the front door and had not shot himself. She told him: *"No I'm not letting you in, you can wait for the Police."*
16. The call taker then obtained further information from Mrs Ineson, including that Mr Ineson:
 - a) did not have the keys to the car at the property;
 - b) had not had any alcohol or drugs that day, apart from medication he normally took for back pain;
 - c) had no history of mental health issues or suicide attempts;
 - d) had not previously done anything like this (*"he's been angry before, but not like this"*); and
 - e) did not have any other firearms at the property apart from the shotgun.
17. The call taker told Mrs Ineson she would keep her on the line, but Police were *"well aware and they're just actioning a plan"*. She also obtained a description of Mr Ineson and asked Mrs Ineson to update her if anything happened at the house.

18. Mrs Ineson explained that Mr Ineson had become really angry and *“over the top”* during their argument, but he was in pain, having had back surgery six weeks earlier. She agreed with the call taker’s conclusion that this had made him *“pretty down in mood”*, noting his doctors could not seem to find out what was wrong with his back.
19. The call taker then asked where Mr Ineson kept his gun and learned there was a gun cabinet in the garage at the entrance to the property.
20. The situation escalated when Mrs Ineson heard her husband trying to get in the front door. She frantically reported: *“He’s shooting the door, he’s shooting the door!”*, and banging sounds can be heard on the 111 audio recording. Mrs Ineson took her two children and hid in the bathroom, saying to the call taker: *“Please hurry... this is urgent.”*
21. While Mrs Ineson reasonably believed at the time that Mr Ineson had fired his shotgun at the door, a later examination of the scene revealed he had used an axe to break in and get the keys to his car. Unknown to Mrs Ineson and Police, he had also put his shotgun away in the gun cabinet.
22. Mrs Ineson then told the call taker Mr Ineson had gone out of the house. She said she and the children were locked in the bathroom, but she did not know *“how safe the lock is”*. The call taker reassured Mrs Ineson that she was doing well, and said she was noting down everything that happened so Police would be aware.
23. Mrs Ineson told the call taker she thought she heard Mr Ineson opening a large shipping container outside near the back of the house. A short time later, Mrs Ineson reported that she heard Mr Ineson starting his car and said: *“He’s going”*. She was confirming the car’s registration number when she heard shots being fired and told the call taker: *“He’s shooting”*.

Mr Y’s 111 call

24. Meanwhile, Police had received a second 111 call from Mr Y who lived across the road from Mr and Mrs Ineson. Mr Y had heard the initial two gunshots (see paragraph 14), and then saw Mr Ineson walking around the front of his property carrying a shotgun and entering his *“shed”*. The call taker asked Mr Y to continue watching Mr Ineson’s address and report what he saw.
25. After some time, Mr Y saw Mr Ineson walk out of his shed and around to the back of his house. He could not tell if Mr Ineson still had the gun. He then reported seeing that the front gate to Mr Ineson’s property was open, and that Mr Ineson was in his car when Police arrived.
26. Police also received some other calls from people who heard gunshots, but not from any other eyewitnesses.

Information given to the responding officers

27. The officer on duty at the Darfield Police Station, Officer A, first knew of this incident when he heard the SouthComms dispatcher informing his sergeant over the Police radio:

“A male has just shot himself, he pointed a gun at [Mrs Ineson] and now he has shot himself. He’s outside on the lawn... [Mrs Ineson]’s heard two gunshots and she now thinks he’s deceased.”

28. The dispatcher said an ambulance would wait at a location near the address until Police made sure it was safe.
29. Officer A got on the radio to say he would arm himself and attend the incident. He asked the dispatcher to confirm there were two gunshots. The dispatcher replied there had been two shots, but Mrs Ineson was now saying Mr Ineson had not shot himself. Officer A questioned whether the ambulance would be a safe distance from the address and asked for confirmation Mr Ineson had a shotgun and not a rifle. The dispatcher said Mrs Ineson was locked up in the house with two children.
30. Officer A’s sergeant agreed with his suggestion that he get help from Officer B, who was off duty but available as he lived near the Police station. The sergeant also said the Armed Offenders Squad (AOS) had been called to attend. Officer A went to inform Officer B of the situation, and Officer B quickly put on his uniform.
31. Officers A and B decided to arm themselves with both Glock pistols and M4 rifles. They also carried Tasers and the rest of their standard equipment, including batons and pepper spray.
32. The officers listened to the radio for updates. Officer A later reported he had trouble with broadcasting using his portable radio and had to revert to using the car radio. He was, however, able to hear the updates, respond to the dispatcher and communicate an initial plan.
33. The dispatcher informed them Mr Ineson was outside and described his car. Officer A told his sergeant over the radio he would get in position to observe the address but would also set up an ‘emergency action’ plan in case Mr Ineson *“goes for the kids”*.
34. Officer A knew the AOS was on the way but would take time to arrive. He later said he had planned to *“put a tight cordon”* on the address and *“challenge”* Mr Ineson if he and Officer B saw him. However, if Mr Ineson threatened the family, he and Officer B would have to go *“straight to the address and confront the offender and stop him from harming his family”*.
35. The dispatcher told the officers Police had a neighbour (Mr Y) observing the address from across the road. The next key update was: *“The male has just shot the door, they are trying to keep the line open with the female, her and the children have run in to the bathroom.”*
36. The dispatcher’s checks on the Police database revealed Mr Ineson was a 56-year-old male with no criminal history. There was no information connected to his address or car. Neither Officer A nor Officer B knew Mr Ineson or had visited his address before.
37. The dispatcher said Mr Ineson was *“still on the scene”*, Mrs Ineson was still on the phone and the neighbour was still watching the address. Officer B reported that he and Officer A were on the way and were *“going straight in, tooled up”*.

38. Officer A later said he had turned his Police car's siren on and then turned it off just before turning into the road where Mr Ineson lived:

"My intention was to let him know the Police were coming and to put him into a fleeing or ambush state of mind to try and keep him away from the family."

39. Officer B asked the dispatcher to record that he and Officer A had arrived at the scene. The dispatcher said Mrs Ineson was *"locked in the bathroom with her children, she's not sure where he is at the moment"*.
40. The dispatcher then advised all units this was an *"Armed Active Offender"* event (see paragraph 48).

Assessment of Police response

41. Both call takers handled the 111 calls very well and obtained a clear picture of the unfolding incident. The call taker speaking to Mrs Ineson provided good support and reassurance, and the call taker speaking to Mr Y made sure he and other people at his property kept themselves safe.
42. Officers A and B were clearly justified in arming themselves in the circumstances, and complied with Police policy by notifying SouthComms, wearing ballistic body armour and considering the Police 'fire orders'.¹
43. SouthComms and the sergeant acted quickly to coordinate the initial Police response, and correctly notified the AOS. The officers initially planned to put a close cordon around the address until the AOS and other supporting officers arrived, consistent with standard operating procedures. However, the plan also anticipated that Officers A and B might need to go straight into the address without backup to seek out and challenge Mr Ineson if he posed an immediate threat to his family.
44. We note the dispatcher did not convey all the information the call taker had obtained from Mrs Ineson to the responding officers, including Mr Ineson's painful experience with his back injury and that he:
- a) had not had any alcohol or drugs that day, apart from medication he normally took for back pain;
 - b) had no history of mental health issues or suicide attempts;
 - c) had not previously done anything like this; and
 - d) was *"pretty down in mood"*.

¹ 'Fire orders' are instructions which set out the circumstances under which Police may use firearms (refer to paragraph 151 in the 'Law and Policy' appendix). When carrying firearms, officers must wear ballistic body armour – in this case, hard armour plating (HAP) over their standard issue Stab Resistant Body Armour (SRBA) – which provides additional protection of vital organs.

45. This was not unusual, as the dispatcher was busy coordinating the response. It is not likely this information would have significantly changed the officers' assessment of the danger Mr Ineson currently posed to his family.
46. The key information the dispatcher gave to Officers A and B was:
- a) Mr Ineson had pointed a gun at his wife;
 - b) Mrs Ineson had heard two gunshots and thought Mr Ineson had shot himself, but he had not;
 - c) Mrs Ineson and the children were in the house and Mr Ineson was locked out;
 - d) Mr Ineson had shot the door;²
 - e) Mrs Ineson and the children had run into the bathroom; and
 - f) Mr Ineson was not known to Police.
47. Officer A later said Mr Ineson shooting the door of the house:
- “was the trigger to me for it to become an active shooter and from that point my tactics were going to be to go straight to the address and confront the offender and to stop him from harming his family.”*
48. Police define an 'active' armed offender as:
- “An armed offender... actively causing the immediate death or serious injury of multiple victims. The situation is not contained and there is substantial risk of ongoing danger to other persons.”*
49. Mr Ineson had not caused injury or death to Officer A's knowledge. However, we accept Officers A and B reasonably believed:
- a) Mr Ineson posed an imminent danger to the lives of his wife and children; and
 - b) the officers needed to find and confront him immediately.
50. Shortly before the officers arrived at the scene, the dispatcher told them Mrs Ineson was still on the phone with Police, did not know where Mr Ineson was, and was locked in the bathroom with her children. However, the officers could not be certain Mrs Ineson and the children were not in imminent danger, even if Mrs Ineson was still on the phone with Police. They had not received any information to suggest the threat Mr Ineson posed to his family had diminished.
51. Officers A and B arrived at the address within about 15 minutes of Mrs Ineson calling 111, and within about four minutes of Mrs Ineson reporting that Mr Ineson had shot the front door. It would have been preferable for them to have had the support of additional officers, as it is dangerous to enter a property and confront an armed offender. However, it was reasonable for

² As noted above, Mr Ineson actually used an axe on the door, presumably to get his car keys so he could leave the address.

them to decide to go straight to the address given the circumstances and the urgency of the situation. The two officers had the necessary skills, experience, training and equipment to proceed without backup. Furthermore, they genuinely believed delaying their approach would mean Mrs Ineson and her children continued to face a risk of serious harm or death.

FINDINGS ON ISSUE 1

The initial Police response to Mrs Ineson's 111 call was appropriate.

Officers A and B complied with policy when arming themselves.

ISSUE 2: WERE OFFICERS A AND B JUSTIFIED IN SHOOTING AT MR INESON?

The officers' confrontation with Mr Ineson

52. Officers A and B parked a short distance from Mr and Mrs Ineson's address, a detached house on a large section on State Highway 77. The property is screened by a thick hedge and mature trees. The officers approached on foot along the road, initially on the opposite side to the address and then crossing over towards the property's driveway. Officer A signalled some traffic on the road to pull over and several cars stopped about 50 metres past the address.
53. Both officers had their rifles ready as they scanned the area and moved forward. Officer A took the lead because he was the officer on duty and had nine years' experience as an AOS officer.
54. About 30 metres away from the address, Officer B heard a car door opening and looked through a gap in the hedge. He saw a man getting into the driver's seat of a car matching the description SouthComms had provided, and told Officer A. The man was Mr Ineson.
55. The officers quickly took up positions in line with the entrance to the driveway, with Officer A on the left and Officer B on the right (facing the property). Officer A said he was standing in the middle of the road.
56. Both officers said Officer A shouted: "Stop, armed Police!" Mr Ineson started his car and began reversing to position it so as to drive out of the property. Officer A said he repeated the command to stop and pointed his rifle directly at the car. He also made a stop gesture with his left hand because he was aware Mr Ineson "probably couldn't hear me".
57. According to Officer B: "Without warning the blue car drove at full speed flat out towards us both narrowly missing me."
58. Officer A recalled Mr Ineson deliberately aiming the car at him:

"It was clear that [Mr Ineson] wasn't going to stop due to the speed he was coming out so I stepped further to the left in an attempt to get a bead on his side tyres. I didn't feel justified at this point at shooting him but I was happy to shoot his tyres to try and disable his vehicle, preventing his escape and reducing his speed on the road."

He accelerated at speed and pointed his car towards me. He had to make a concerted effort to do this. I remember being confused at the time because I felt I had positioned myself in a way that would make it impossible for him to drive at me."

59. Officer A did not think he could avoid Mr Ineson's car by moving further to his left, so he ran to his right, towards the other side of the driveway. Officer A said:

"I could see [Mr Ineson] clearly focussed on me and he turned his car to follow where I ran. He then completely floored his car and I estimate that he was going over 50k an hour. I was at the centre of the road when he hit me and he hit me side on."

60. Officer A estimated he ran approximately five metres before he was hit by the car.
61. A Police crash investigator later photographed, measured and plotted tyre marks at the scene but was not asked to conduct a full crash investigation or produce a report. With the limited information he had, he estimated Mr Ineson's speed at impact with Officer A to have been between 41-49 kph.
62. Mr Ineson's car struck Officer A's left leg. The force of the impact sent Officer A up onto the car's bonnet, across the windscreen and onto the roof before he rolled off the side and onto the road. He suffered injuries to his left shoulder and elbow, and his left leg was badly damaged.³
63. Mr Y (the neighbour who had earlier called 111) and several other people in cars which had pulled over to the side of the road about 50 metres away witnessed Mr Ineson's car coming out of the driveway at speed and colliding with Officer A. Mr Y did not recall Officer A running to his right. Another witness (in the approximate location of the officers' patrol car) corroborated Officer A's recollection of running in that direction.

Did Mr Ineson intentionally drive at Officer A?

64. Mrs Ineson did not see what happened because she was locked in her bathroom on the phone with Police at this time. She later told Police and the Authority she had definitely heard Mr Ineson shout "*get out of the way!*" while his car was still in the driveway. She did not hear the officers give any warnings.
65. A scene examination found two long tyre marks on the gravel driveway, consistent with a vehicle under heavy acceleration throughout. The tyre marks portray a relatively consistent arc to the right, indicating that Mr Ineson intended to turn right out of his driveway. When exiting the gateway, the car scraped the left-hand gate post, breaking its left wing-mirror. Once past the gate posts, the plotting indicates Mr Ineson increased his turn to the right.
66. It appears Officer A interpreted Mr Ineson's right turn out of his driveway as deliberately following him when he initially moved left to "*get a bead on his side tyres*". However, the evidence is also consistent with Mr Ineson simply being determined to make a rapid escape,

³ Officer A later needed surgery to place pins in his broken leg.

heading away from Darfield. There would have been very little time for Mr Ineson to react when Officer A then changed his direction and began moving right.

67. Officer A's change of direction was sudden. Given the acceleration and distance travelled by Mr Ineson, he would have had to deviate suddenly and dramatically to his left to have deliberately *"turned his car to follow where [Officer A] ran"* and then, just as dramatically, deviate back to his right to have continued on his original trajectory. Such physical evidence as there is (tyre marks on the gravel driveway) does not disclose any such deviation; the tyre marks maintain the same consistent arc to the right.
68. We note that no tyre friction marks were found on the sealed road surface. The Police crash investigator told us that, as Mr Ineson's vehicle had ABS brakes, it generally would only leave tyre marks on the bitumen if the driver lost control and the car skidded.
69. There is therefore no physical evidence to support Officer A's belief that, after he began moving right, Mr Ineson turned his car to follow him.
70. Both the officers and Mrs Ineson said Mr Ineson knew the officers were there before he drove out of his driveway onto the state highway at speed. Mr Ineson did not slow down to check for traffic and there was no sign of him braking on the gravel driveway before his car entered the roadway and struck Officer A.
71. Although his actions were clearly reckless, we find it likely Mr Ineson did not deviate so as to purposely hit Officer A with his car. We note also Mrs Ineson's statement that Mr Ineson had warned the officers to get out of his way prior to his exiting the property. If he had formed an intent at that stage to deliberately run down a Police officer, he was unlikely to have given a warning.
72. However, we are satisfied Officer A genuinely and reasonably (but mistakenly) believed Mr Ineson was deliberately aiming the car at him.

Shots fired

73. Officer A managed to hold onto his rifle as he rolled over Mr Ineson's car and landed on the road. He later said he was thinking *"how clear [Mr Ineson's] intent was to seriously injure or kill me and how hard he had hit me"*, and his *"immediate worry was to avoid being knocked unconscious... as I wouldn't be able to defend myself against further assault"*. Officer B said: *"My immediate thought was that [Mr Ineson] had killed [Officer A]."*
74. Mr Ineson continued accelerating down State Highway 77 and away from Darfield. The road has an 80 kph speed limit in this area and is straight with a grass verge on either side of the tarmac. It is a well-used arterial road for travelling to or from Christchurch.
75. Officer A said he had no strength in his left arm after the collision, so he rested his rifle on his knee. Mr Ineson's vehicle was about 40 metres away and Officer A saw no other vehicles or pedestrians. He aimed at the lower right section of the car and thought he fired four or five shots

at Mr Ineson as he drove away. He stopped firing when he felt he could no longer safely aim his weapon. He said:

“I just couldn’t even bring my hand up to hold it properly and so as I fired a couple of shots, it sort of recoiled off, off my knee a bit... and I kept shooting at the, at the back of the car and just my, my focus shifted from trying to shoot the offender to try and disable his vehicle.”

76. Meanwhile, Officer B remained standing and aimed his rifle at the rear of Mr Ineson’s car, tracking it in his sights down the road. He said he was aware of the properties on either side, and so waited until his line of fire straightened up and he would be firing down the road. He then fired two shots, aiming at Mr Ineson in the driver’s seat. There was no other traffic.
77. According to the audio recording of Mrs Ineson’s 111 call, the shooting began within about 12 seconds of Mrs Ineson reporting that Mr Ineson was leaving the address and lasted for about seven seconds. Officer B said that before he fired his two shots, he had heard Officer A firing three shots. While Officer A only recalled firing four or five shots, and Officer B only two, a total of 10 shots were fired. The number of bullets left in Officer A’s rifle and the position of the bullet casings found at the scene indicates Officer A fired eight shots. Six of the ten shots hit the rear of Mr Ineson’s car. Police did not find the other four bullets.
78. A fragment of one of the bullets struck and killed Mr Ineson. Environmental Science and Research (ESR) later examined bullet fragments recovered from the car, but was unable to confirm which rifle fired them due to *“a lack of random features present in the bullet fragments that are required for identification”*. ESR also considered the lead fragment recovered from Mr Ineson’s body (approximately 1 by 5 millimetres in size) *“unsuitable for comparison to a firearm”*. Therefore, it is not known which officer fired the fatal shot.

Assessment of the officers’ justification for shooting at Mr Ineson

Officers’ perception of the circumstances

79. Both officers said they believed Mr Ineson was a threat to their lives and the lives of members of the public and other Police officers.
80. Officer A said that, after Mr Ineson had struck him with his car, he believed they were justified in shooting at him:

“I shot at the offender and his vehicle to prevent him escaping as I was concerned that there was a potential threat to the public or Police based on his actions at the house and as he exited the property he was going to hurt other people.”

81. When questioned further about this, he added:

“[Mr Ineson] just tried to kill me. His wife in the initial call said that he shot himself which led me to believe that he was potentially suicidal beforehand. If I don’t stop him he’s going to take out a family... in the next car coming.”

82. Officer A believed Mr Ineson still had a shotgun and *“feared that he would come back and try and finish me off or hurt a member of the public”*. He said:

“as he just drove off down the road um you know seemingly unaffected from my shots, I just felt like a complete failure and I was just full of dread for what he was going to do to the next vehicle he came across.”

83. Officer B also believed Mr Ineson posed a threat to others:

“My threat assessment at the time was that he’d threatened to kill his wife, fired a shotgun, fired shotgun shots, deliberately run over [Officer A] to try to kill him, was fleeing and believed to be in possession of a shotgun, and was in danger to cause [grievous bodily harm] or death to the public at large.

... I believe that had we not prevented this offender fleeing he, he could have surely and deliberately crashed into another and used the gun we believed he had with him thereby putting at risk the public and Police.”

84. Both officers believed Mr Ineson had just deliberately hit Officer A with his car. This was no doubt an extremely frightening experience and the officers understandably felt they had been in serious danger in the moments Mr Ineson exited the property. The officers say the fact that Mr Ineson had just tried to kill or seriously injure a Police officer caused them to fear what else he was prepared to do to others who crossed his path.

85. The Authority therefore accepts that, in the officers’ minds, Mr Ineson was volatile and dangerous, and potentially suicidal. They feared he would deliberately crash into another vehicle, potentially killing or seriously injuring any occupant of that vehicle. They also believed Mr Ineson may still have the shotgun with him and were concerned he would attack other Police officers in his efforts to escape or would return to attack them or his family with his gun or vehicle. As mentioned in paragraph 44, they were not aware that he was not under the influence of alcohol or illicit drugs, had no known mental health history, and had never done anything like this before.

Possible justifications for the use of force in these circumstances

86. The following provisions of the Crimes Act provide legal justification for using force in certain circumstances:

- a) Section 39 empowers Police to use *“such force as may be necessary”* to overcome any force used in resisting an arrest or the execution of any sentence, warrant, or process.
- b) Section 40 empowers Police to use *“such force as may be necessary”* to prevent the escape of someone who takes to flight in order to avoid arrest.
- c) Section 48 provides that any person is justified in using *“reasonable”* force in defence of themselves or another.

87. We will consider each in turn.

Were the officers legally justified in shooting at Mr Ineson to effect his arrest under section 39?

88. Neither Officer A nor Officer B at any time indicated they intended to arrest Mr Ineson, merely stop him. But we think it a reasonable inference that, had they stopped him, they would have arrested him in relation to the firearms incidents at his house. Additionally, given both officers' perceptions of Mr Ineson's actions in hitting Officer A with his car, they had ample reasonable grounds to arrest him for those actions.
89. However, we do not think section 39 applies in this case because the section contemplates force being immediately used to counter resistance. Shooting at Mr Ineson was not for the purpose of overcoming any resistance. Even if it was determined that Mr Ineson deliberately used the force of the car against Officer A, that use of force had passed and he was now fleeing in his car to avoid arrest.

Were the officers legally justified in shooting at Mr Ineson to prevent his escape under section 40?

90. While section 40 allows the use of force, including lethal force, to prevent an escape, it is silent as to the circumstances in which that will be justified. Nonetheless, it is clear the section will only justify force that is proportionate to the nature and degree of the risk the person poses if they succeed in escaping.
91. In the Authority's view, the primary purpose of an officer using force under section 40 is to take the fleeing or escaping offender into custody, and the proportionality of his or her force should be assessed against two factors:
- a) the seriousness of the offence for which the person is to be apprehended (and the consequent public interest in detaining them in order to bring them to justice); and
 - b) the likelihood and degree of risk the offender poses if escape is not prevented.
92. How are these two factors to be assessed? Are they to be determined by the actual belief of the officers concerned (a subjective test), or the reasonableness of that belief (an objective test)? There is no direct legal authority on section 40 that we are aware of. However, the courts have considered this issue in related contexts.
93. In the context of section 55 of the Crimes Act (which justifies the use of necessary force to prevent breaking and entering of a residence), the Court of Appeal in *R v Haddon* held that the necessity to use force was to be assessed by reference to the officers' actual belief (the subjective test).⁴ In contrast, in the context of section 41 of the Crimes Act (which justifies the use of necessary force to prevent the commission of suicide or an offence that would be likely to cause the immediate and serious injury to a person or property), the Court of Appeal in *Russo v R* held that the necessity to use force was to be assessed by reference to the reasonableness of the belief (the objective test).⁵

⁴ *R v Haddon* [2007] NZAR 135 (CA).

⁵ *Russo v R* [2011] NZCA 79, [2011] NZAR 123.

94. The Authority believes that the test in *Russo* is more applicable to section 40 than the test in *Haddon*. That is because, like section 41, section 40 justifies the use of force for preventive rather than defensive reasons (although there is obviously some overlap between the two). Moreover, while section 41 is concerned with the prevention of an offence that would be likely to cause immediate and serious injury, section 40 has no such immediacy requirement. If section 41 requires that an officer's perception of the circumstances be reasonable, it would be strange indeed if section 40 did not do so.
95. We also note that section 40 is an adjunct to the power of arrest. Since the legality of an arrest will generally depend upon a reasonable belief (that an offence has been committed), it would be surprising if the situation where "necessary" force is being used to facilitate a lawful arrest or achieve a similar outcome were to be assessed on a different, less stringent standard based upon actual belief.
96. Our view is supported by Adams on Criminal Law (ref [CA39.02 and [CA40.02]), which cites the High Court decision in *Hill v Police* ((1994) 12 CRNZ 89 (HC) at 93):

"It is plain from [sections] 36, 39 and 40 that the person making the arrest must have reasonable and probable grounds for believing that the person or persons arrested were committing an offence... and that he can only use such force as may be necessary to arrest or prevent escape. The evaluation of the arresting person's conduct and belief will be an objective one taking all the circumstances into account."

97. Notably, too, section 40 contains a specific proviso in relation to the use of force for the prevention of escape where the force "is intended or likely to cause death or grievous bodily harm". Such force can only be used by "a constable or a person called upon by a constable to assist him or her", and not other law enforcement officers who may be trying to effect an arrest. This is in contrast with force used in self-defence (section 48) which has no such restriction. Thus, section 40 sets apart those with the authority and training that police officers have. It is reasonable to assume that is so because of the recognition that police officers are equipped with the appropriate risk assessment skills to make these judgements. Accordingly, those judgements ought to be objectively assessed.
98. This interpretation is also consistent with the Police 'fire orders', which state Police may use a firearm to prevent an offender escaping if they "believe **on reasonable grounds** [emphasis added] that the offender poses a threat of death or grievous bodily harm to any person (whether an identifiable individual or members of the public at large)".
99. In conclusion, in considering the justification for the officers' actions under section 40, the Authority must determine whether both their beliefs as to the circumstances and the degree of force they used were reasonable. That must be assessed by reference to:
- a) the seriousness of the offences for which Mr Ineson was liable to arrest;
 - b) the likelihood and degree of risk Mr Ineson actually posed if escape was not prevented; and

- c) the proportionality of the force the officers used as a result.

The seriousness of Mr Ineson's offences

100. Mr Ineson's actions could have led to charges including (at least) reckless or dangerous driving causing injury, as well as firearms offences and an assault on his wife. This is serious offending. Accordingly, the public interest in arresting Mr Ineson was high.

The likelihood and degree of risk Mr Ineson posed

101. The officers' beliefs as to the circumstances are described above (see paragraphs 79-85).
102. We accept that, while the officers knew Mr Ineson had no prior criminal history, it was reasonable for them to be extremely concerned about his behaviour during this incident. In particular, his actions in accelerating out of his driveway and striking Officer A with his car led the officers to believe he needed to be apprehended as quickly as possible.
103. However, under section 40 we must objectively assess the degree and likelihood of the risk Mr Ineson actually posed if he remained at large.
104. The degree of harm Mr Ineson could have caused if any of the risks cited by the officers actually eventuated was very serious: severe injury or death to potentially multiple people.
105. However, with the benefit of hindsight, we think the likelihood Mr Ineson would have actually killed or seriously harmed another person as he was driving away was low:
- a) Mr Ineson was fleeing a family harm incident and there was nothing to suggest he was intent on hurting the wider public in an attempt to kill himself or for any other reason. We accept that the officers' perception that Mr Ineson had attempted to (at the least) seriously injure Officer A would have added to their apprehension as to Mr Ineson's future actions. But we do not think it was reasonable to conclude from that specific incident that Mr Ineson posed a real risk of suicide by deliberately "*tak[ing] out a family... in the next car coming*". If self-harm was his aim, the use of the shotgun the officers believed he possessed was a far more likely means to accomplish that aim.
 - b) Mr Ineson had demonstrated a disregard for the safety of others as he accelerated out of his driveway onto the highway. There was, therefore, a chance that he would recklessly harm members of the public by his manner of driving. While this risk could have continued for some time as he tried to put distance between himself and the scene, the road he was travelling on is quite straight and wide, and the likelihood he would actually collide with another vehicle was low.
 - c) We also consider it unlikely that Mr Ineson would have attacked members of the public, or returned to the scene to threaten the officers' lives. Rather than harming anyone else, Mr Ineson's primary goal was more likely just to get away from the situation.
 - d) It was possible that Mr Ineson would have continued to avoid arrest by either driving into or shooting at Police officers who later tried to apprehend him. This threat could have

been mitigated to some extent by Officers A and B warning the other officers of the risk, but we accept it was a genuine concern. The officers were aware Mr Ineson was not known to Police, but he had given them reason to believe he was capable of deliberately harming Police officers given his actions as he left his address. Still, the actual likelihood of that happening was low.

106. The Authority has therefore concluded that there was a low likelihood of risks identified by the officers occurring, although they would have had serious consequences if they had materialised.

Proportionality

107. Section 40 requires Police to use the minimum force needed to achieve their objective. Force will not be justified if the escape could have been “*prevented by reasonable means in a less violent manner*”.
108. We accept there were no reasonable “*less violent*” tactical options than firearms immediately available to Officers A and B to prevent Mr Ineson from escaping. However, that does not mean Officers A and B were automatically justified in shooting at him.
109. The use of firearms (lethal force) is not prohibited but, because of the severity of possible outcome, ought to be the last resort. It can lead to the death of the person shot at. It did here.
110. Police policy and training is designed to instil in officers the concept of assessment of risk (such as the TENR framework used by New Zealand Police) before they undertake any coercive action in carrying out their duties. It is reasonable to take the view this is so because experience has shown that instinctive and impulsive reaction is often not reasonable.
111. Although the officers seem to have believed they had no option but to try to prevent Mr Ineson from immediately escaping by shooting at him (and in Officer A’s case, trying to disable his car as well), that is not true. They could have chosen to let Mr Ineson leave. The officers’ training should have primed them to assess this situation and realise that, as long as Mr Ineson was driving away, he no longer posed an immediate threat to them or his family and the likelihood he would harm the general public or other Police was relatively low. Shooting to prevent Mr Ineson’s escape in these circumstances was not a reasonable response, despite what Mr Ineson had just done. As to the bringing of Mr Ineson to justice, they knew who he was and where he lived. He would have been easily traced.
112. It is true that, in this case, the officers had little time to make a considered assessment of the situation. As noted below (paragraph 118), there was just a few seconds between Officer A being hit by Mr Ineson’s vehicle and Officer A shooting at him. But, given the standard imposed by the proviso in section 40, it was incumbent upon the officers to make such an assessment before they acted. If they did not have time to think about it before they acted, then they should not have attempted to prevent escape at all.

Concluding comments on section 40

113. For the reasons outlined above we find Officers A and B were not justified in shooting at Mr Ineson to prevent his escape.

114. However, the officers did not use force for that purpose alone – they also said they acted to defend themselves and others from the danger Mr Ineson posed. Therefore, we will now consider whether section 48 of the Crimes Act provides the officers with legal justification for shooting at Mr Ineson.

Were the officers legally justified in shooting at Mr Ineson in defence of themselves or others under section 48?

115. The legal test under section 48 differs from that under section 40. The former is based on the subjective assessment of the officers, whereas the latter is based on an objective assessment of the circumstances.

116. Accordingly, section 48 requires that the individual officer’s actions be assessed on both a subjective basis as to the perceived circumstances, and an objective basis as to the degree of force. This assessment involves three questions:

- a) What were the circumstances as the officers believed them to be (a subjective test)?
- b) Did the officers shoot at Mr Ineson for the purpose of defending themselves or someone else (a subjective test)?
- c) Was shooting at Mr Ineson reasonable in the circumstances as the officers believed them to be (an objective test)?

117. Before embarking on this analysis, we acknowledge the courts recognise that often those in the position of defending themselves or others must “*act on the instant*” and their actions should not be judged “*to a nicety*” with considered hindsight months later.⁶ We have approached our analysis with that in mind.

118. We acknowledge Officers A and B were in a highly stressful, fast-moving situation and had very little time to consider how best to react in the heat of the moment. As noted above, the recording of Mrs Ineson’s 111 call indicates only 12 seconds elapsed from the time Mr Ineson was leaving the driveway to the time the officers began shooting. The time between Officer A being hit by Mr Ineson’s vehicle and Officer A shooting at him was but a fraction of that 12 seconds. Given the extremely short timeframe, we believe the officers’ individual decisions to shoot at Mr Ineson were primarily instinctive reactions born of their experience and influenced by what they believed was happening at the time.

What were the circumstances as Officers A and B believed them to be?

119. The officers said they believed that if Mr Ineson was allowed to escape, he would remain a threat to their lives and to the lives of members of the public and other Police who might encounter him. Officer A said he feared Mr Ineson was a suicide risk and would “*take out a family... in the next car coming*”. Officer B said Mr Ineson “*could have surely and deliberately crashed into*

⁶ Adams on Criminal Law (ref [CA40.02]); *Archbold v Attorney-General* [2003] NZAR 563 (HC).

another and used the gun we believed he had with him thereby putting at risk the public and Police” (see paragraphs 79-85 above for more detail on the officers’ views of the threat).

Did the officers shoot at Mr Ineson for the purpose of defending themselves or someone else?

120. Officers A and B said they fired shots at Mr Ineson to prevent him from escaping, but explained they also wanted to stop Mr Ineson because they believed he posed a deadly risk to them and others. We accept both officers shot at Mr Ineson for the purpose of protecting themselves and others.

Was the force used reasonable in the circumstances as Officers A and B believed them to be?

121. The threat a person poses does not need to be imminent before it justifies the use of force under section 48, but imminence is highly relevant to the assessment of the reasonableness of that force. The courts have said that the consideration of what is reasonable force in the context of defending yourself and others *“must depend upon the imminence and seriousness of the threat and the opportunity to seek protection without recourse to the use of force”*.⁷ While imminence has a temporal context, it can mean *“about to happen”* or *“soon to happen”* rather than *“immediate”*. We must consider that in the context of the rapidly unfolding events that confronted the officers.

122. Officer A said he feared that Mr Ineson could *“come back and try and finish [him] off”*. However, he knew Mr Ineson was driving away from him at high speed at the time he fired his shots. Therefore, we do not accept that he perceived that particular threat to be sufficiently imminent to justify firing at Mr Ineson. Any direct threat that Officer A believed he confronted at that point was speculative and remote, and to have used lethal force against Mr Ineson for the sole purpose of defending himself was not reasonable.

123. However, Officers A and B also believed Mr Ineson posed a threat to any members of the public or Police officers he may encounter in the near future as he drove off. To Officer A the threat was that Mr Ineson might *“take out a family... in the next car coming”*. Officer B thought Mr Ineson could cause serious harm or death to the public and Police, by deliberately crashing into them or using the gun they believed he had with him.

124. Officers A and B did not identify any individual who was at imminent risk, and said there was no other traffic immediately visible to them when they fired their shots. However, as they were on a state highway and an arterial route to Christchurch, regular traffic use could be expected. Other Police officers were also on their way to assist Officers A and B and to cordon the area. The possibility of Mr Ineson confronting another road user or Police officer within a very short time was a real one.⁸ Given that context, we accept Officers A and B perceived this threat as being imminent.

125. In the circumstances of this case we have concluded that, given Officers A and B believed Mr Ineson posed a serious and imminent threat to road users and Police, shooting at him in defence

⁷ *R v Wang* [1990] 2 NZLR 529, at 536.

⁸ At open road speeds, two cars converging from one kilometre apart meet each other in less than 20 seconds.

of those people was a reasonable response to the situation as they saw it and they were justified in doing so.

FINDING ON ISSUE 2

Officers A and B were legally justified, under section 48 of the Crimes Act, in shooting at Mr Ineson to defend the public at large and other Police officers.

ISSUE 3: SHOULD POLICE HAVE ATTEMPTED TO PROVIDE MEDICAL ASSISTANCE TO MR INESON MORE QUICKLY THAN THEY DID?

126. Mr Ineson drove about 500 metres before making a wide U-turn in the road. He then drove about 370 metres back towards his house and pulled off the road with his car's hazard lights on.

127. Officer B had gone over to help Officer A when they saw Mr Ineson's car turning back towards them. They were alarmed he was returning and Officer A instructed Officer B to take cover behind a power pole, so he could protect them and Mr Ineson's family if necessary.

128. At this point they did not know Mr Ineson had been injured and still considered him to be a threat. Officer B said:

"We were both totally focused on the blue car observing it in anticipation of firearm shots being fired at us and the vehicle being driven towards us at speed to run us over and kill us both."

129. Both officers said they were also concerned Mr Ineson could leave his car and disappear into the trees lining the road, to return to his house and harm them or his family.

130. Officer A dragged himself to the edge of the road and managed to pull himself into a water-filled ditch. Both officers kept their rifles aimed at Mr Ineson's car. They could see someone in the driver's seat but due to the distance could not see clearly what, if anything, he was doing. Officer A tried to update SouthComms but found his radio was not working after the collision and being submerged in water.

131. Mr Y came to help Officer A out of the ditch, and together they joined Officer B at the power pole at the end of his driveway. Mr Y had to help Officer A to walk due to the officer's injuries.

132. Officer A then used Officer B's radio to advise SouthComms he had fired "two or three" shots at Mr Ineson. This happened about 10 minutes after the shooting took place. At the time Officer A did not know Officer B had also fired shots. Although Officer B had provided other updates, he had not told SouthComms he and Officer A had fired shots. His Police statement shows he was intently focused on the potential threat from Mr Ineson during this time, which may explain why he did not think to advise SouthComms earlier. While it would have been preferable for Officer B to inform SouthComms that shots had been fired as soon as possible, it is unlikely this would have resulted in a different outcome. Officers were already quickly travelling to the scene, and the ambulance had to wait until Police had declared it safe to approach.

133. Another officer arrived and parked next to Officers A and B. After checking on Mrs Ineson and the children inside the house, this officer got some binoculars from Mr Y so he could see the car better. He saw the driver was not moving and appeared slumped forward over the steering wheel.
134. More officers arrived, including Officer A's sergeant and a dog handler. The officers had not seen any movement from Mr Ineson's car, and a man driving past (before Police cordoned off the road) told them Mr Ineson was dead.
135. About 18 minutes after Officers A and B had fired the shots, the sergeant agreed with three other newly-arrived officers that they should go forward to check on Mr Ineson rather than waiting for the AOS to arrive. They slowly approached the car, repeatedly stopping to call on Mr Ineson to get out. When they reached the driver's door, the officers found Mr Ineson had no pulse. They decided medical assistance would be of no use as Mr Ineson was clearly dead.
136. Police called an ambulance forward to attend to Officer A and confirm Mr Ineson's death. Paramedics completed a 'Verification of Death' form at 5.20pm.
137. We find it was reasonable for Police to be cautious in their initial approach to Mr Ineson's car. An ambulance could not be called forward until Police had confirmed it was safe, and this necessarily took time. As soon as enough officers had arrived, they moved forward to check on Mr Ineson.

FINDING ON ISSUE 3

The cautious manner in which the Police approached Mr Ineson's car was reasonable. Sadly, he died before they could provide medical assistance.



Judge Colin Doherty

Chair
Independent Police Conduct Authority

15 December 2020

IPCA: 18-1052

Appendix – Laws and Policies

USE OF FORCE

Law

138. Section 39 of the Crimes Act 1961 provides for law enforcement officers to use reasonable force in the execution of their duties such as arrests and enforcement of warrants. Specifically, it provides that officers may use *“such force as may be necessary”* to overcome any force used in resisting the law enforcement process unless the process *“can be carried out by reasonable means in a less violent manner.”*
139. Section 40 of the Act also states that Police may use *“... such force as may be necessary to prevent the escape of [someone who] takes to flight in order to avoid arrest”*.
140. Section 48 of the Act states: *“Everyone is justified in using, in the defence of himself or herself or another, such force as, in the circumstances as he or she believes them to be, it is reasonable to use.”*

Police policy on use of force

141. The Police ‘Use of Force’ policy provides guidance to Police officers about the use of force. The policy sets out the options available to Police officers when responding to a situation. Police officers have a range of tactical options available to them to help de-escalate a situation, restrain or arrest a person, or otherwise carry out lawful duties. These include communication, mechanical restraints, empty hand techniques (such as physical restraint holds and arm strikes), OC spray, batons, Police dogs, Tasers and firearms.
142. Police policy provides a framework for officers to assess, reassess, manage and respond to use of force situations, ensuring the response (use of force) is necessary and proportionate given the level of threat and risk to themselves and the public. Police refer to this as the TENR assessment:
- Threat: Any individuals or any actions or anything likely to cause harm.
 - Exposure: Potential for harm to people.
 - Necessity: Whether to respond to a given situation.
 - Response: An officer must consider all the circumstances and must be timely, appropriate and proportionate.
143. The overriding principle when applying TENR is ‘safety is success’. Public and employee safety are paramount, and every effort must be made to minimise harm and maximise safety.
144. Police officers must also constantly assess an incident based on information they know about the situation and the behaviour of the people involved; and the potential for de-escalation or

escalation. The officer must choose the most reasonable use of force, given all the circumstances known to them at the time. This may include information on: the incident type, location and time; the officer and subject's abilities; emotional state, the influence of drugs and alcohol, and the presence or proximity of weapons; similar previous experiences; and environmental conditions. Police refer to this assessment as an officer's Perceived Cumulative Assessment (PCA).

145. A key part of an officer's decision to decide when, how, and at what level to use force depends on the actions of, or potential actions of, the people involved, and depends on whether they are: cooperative; passively resisting (refuses verbally or with physical inactivity); actively resisting (pulls, pushes or runs away); assaultive (showing an intent to cause harm, expressed verbally or through body language or physical action); or presenting a threat of grievous bodily harm or death to any person. Ultimately, the legal authority to use force is derived from the law and not from Police policy.
146. The policy states any force must be considered, timely, proportionate and appropriate given the circumstances known at the time. Victim, public and Police safety always take precedence, and every effort must be taken to minimise harm and maximise safety.

FIREARMS

Authorisation to carry firearms

147. Officers who hold the position of sergeant or above, and officers who are authorised by a district or communications centre supervisor, may carry firearms when there is "*clear and specific evidence*" they may encounter circumstances in which they may be required to use a firearm.

Responsibilities when firearms are carried

148. Police policy on firearms requires that when an officer carries a firearm because they have assessed a situation as being within, or likely to escalate to be within, the death/grievous bodily harm range, they must advise their immediate supervisor and the Police Communications Centre of their decision to deploy with firearms as soon as practicable, and also deploy with a Taser where one is available.
149. When deploying to an incident where firearms are or may be present, officers must wear approved ballistic body armour.

Use of firearms

150. The 'Police firearms' chapter of the Police Manual instructs members of the Police to always be aware of their personal responsibilities in the use of firearms, reminds them of the relevant sections of the Crimes Act, and sets out the circumstances in which the use of lethal force is justified.
151. The Police 'fire orders' state:

“Responsibility for knowing when firearms may be used

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, and all relevant instructions and guidelines contained in this chapter.

Conditions to be satisfied before use

The circumstances justifying police firing at an offender can change very rapidly. Any employee who fires a shot must be personally satisfied through their perceived cumulative assessment that there exists justification for doing so.

An offender must not be shot without first considering —

Communication	they must have first been asked to surrender (unless it is impractical or unsafe to do so), and
Less violent alternatives (Proportionality)	it must be clear they cannot be disarmed or arrested without first being shot, and
Delay (Necessity)	it must be clear that further delay in apprehending the offender would be dangerous or impractical

Making decisions to use

Police must only use a firearm for these lawful purposes:

Lawful Purpose	Police may use a firearm...
Defending themselves or others (s48 Crimes Act 1961)	to defend themselves or others if: <ul style="list-style-type: none">• they fear death or grievous bodily harm to themselves or others, and• cannot reasonably protect themselves or others in a less violent manner.
Arresting an offender (s39 Crimes Act 1961)	to arrest an offender if they: <ul style="list-style-type: none">• believe on reasonable grounds that the offender poses a threat of death or grievous bodily harm in resisting their arrest, and• the arrest cannot be reasonably effected in a less violent manner, and• the arrest cannot be delayed without danger to other people.

<p><i>Preventing escape</i> (s40 Crimes Act 1961)</p>	<p><i>to prevent an offender escaping if:</i></p> <ul style="list-style-type: none"> • <i>police believe on reasonable grounds that the offender poses a threat of death or grievous bodily harm to any person (whether an identifiable individual or members of the public at large), and</i> • <i>the offender flees to avoid arrest or escapes after arrest, and</i> • <i>the flight or escape cannot reasonably be prevented in a less violent manner.</i>
<p><i>Destroying animals</i></p>	<p><i>To destroy animals in circumstances set out in the Animals chapter of the Police Manual.”</i></p>

Principles applying when offenders are armed

152. Police policy states that, when dealing with an armed offender or an offender believed to be armed, Police should observe these basic principles:

- *“Conduct an ongoing TENR assessment 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, police must 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.*
- *Where practical, police should not use a firearm unless it can be done without endangering other persons.”*

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.

The Authority must then 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 of investigators, report writers and managers. 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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