

# Non - fatal Police shooting of Chazz Hall in Hawkes Bay

## INTRODUCTION

1. At about 10.56pm on Monday 26 October 2015, members of the Hawkes Bay Armed Offenders Squad (AOS) shot and wounded Chazz Hayden Hall. At the time of the shooting, Police were responding to information that Mr Hall had shot and killed his former partner Ms Victoria (Tori) Foster at an address in Napier.
2. The Police notified the Independent Police Conduct Authority of the incident, and the Authority conducted an independent investigation. This report sets out the results of that investigation and the Authority's findings.

## Index of Police staff

Field Staff	
Officer A	Sergeant, wearing uniform driving an unmarked Police vehicle.
Officer B	Constable, uniformed patrol officer, armed with a Glock handgun.
Officer C	Constable, uniformed patrol officer, armed with a M4 Bushmaster rifle.
AOS Officer D	Sergeant, uniformed patrol supervisor and Hastings AOS Team leader. Armed with a M4 Bushmaster rifle and Glock handgun.
AOS Officer E	Sergeant and Napier AOS Team leader. Armed with a M4 Bushmaster rifle and Glock handgun.
AOS Officer F	Constable, team member Hastings AOS. Armed with a M4 Bushmaster rifle and Glock handgun.
AOS Commander	Sergeant, Hawkes Bay AOS Commander.
AOS Officer H	Constable, team member Hastings AOS and driver of lead AOS car. Armed with a M4 Bushmaster rifle and Glock handgun.
AOS Officer I	Constable, dog handler and AOS team member. Armed with a Glock handgun.

AOS Officer J	Constable, team member Hastings AOS. Armed with a M4 Bushmaster rifle and Glock handgun.
AOS Officer K	Detective, team member Hastings AOS. Armed with a M4 Bushmaster rifle and Glock handgun.
Officer L	Acting Sergeant, General duties based in Hastings. Armed with a M4 Bushmaster rifle. Used road spikes.
AOS Officer M	Constable, team member Napier AOS. Armed with a M4 Bushmaster rifle and Glock handgun.
AOS Officer N	Constable, team member Napier AOS. Armed with a M4 Bushmaster rifle and Glock handgun.
AOS Officer O	Constable, team member Napier AOS. Armed with a M4 Bushmaster rifle and Glock handgun.
AOS Officer P	Constable, team member Napier AOS. Armed with a M4 Bushmaster rifle and Glock handgun.
AOS Officer Q	Constable, team member Napier AOS. Armed with an M4 Bushmaster rifle and Glock handgun.
Officer R	Acting Sergeant, Napier general duties. Incident Controller at Napier SFP.
<b>Communications staff</b>	
Shift Commander	Inspector, initially performed the role of Incident Controller until this responsibility was handed to field supervisors.
Comms Dispatcher	Maintained radio communications with field staff throughout the incident.

## BACKGROUND

---

### Events leading up to the Police shooting

3. At 8.55pm on Monday 26 October 2015, the Police Central Communications Centre (CentComms) received a 111 call from Mr X, a relative of Mr Hall. Mr X told the CentComms communicator that he had just received a phone call from Mr Hall, during which Mr Hall told him that he had shot his girlfriend. Mr X told the communicator that he believed that Mr Hall was serious and said that Mr Hall had told him to call the Police.
4. Mr X told the communicator where he believed Ms Foster lived. Mr X also mentioned that he knew Mr Hall had previously owned a firearm and thought that he could get access to one again.
5. Police computer checks on Mr Hall were completed by CentComms. Mr Hall did not have a firearms licence or any officer safety warnings. Mr Hall was also shown as the registered keeper of a red Toyota Corolla saloon (the Corolla).

6. CentComms immediately broadcast the information to local officers including the Corolla's registration details. Plans were made to establish a Safe Forward Point (SFP)<sup>1</sup> close to Ms Foster's address.
7. Napier general duties officers were dispatched to set up the SFP. These officers armed themselves before leaving Napier Police station and reminded themselves of Police Fire Orders (FO61)<sup>2</sup>.
8. The officers believed it was likely that Mr Hall was armed and could still be at Ms Foster's address, so they set up cordons around her house.
9. Over the next hour several important developments took place at about the same time. These are discussed in the next few sections and include:
  - Police making contact with Mr X and Mr X calling Mr Hall.
  - Information provided on Mr Hall's movements following the shooting.
  - The clearing of Ms Foster's address, and
  - The involvement of the Hawkes Bay AOS.

#### Police interaction with Mr X.

10. Officers B and C were directed by Officer R, their acting sergeant, to go and see Mr X at his home address in Napier. Both officers were cautious about going to Mr X's address as they thought that Mr Hall could be present. Both officers were already armed as they had originally been instructed to attend the SFP.
11. At around 9.20pm they arrived at Mr X's address and contacted CentComms to arrange for Mr X to meet them outside. Officers B and C then spoke to Mr X.
12. Officers B and C clarified what Mr X had told the 111 communicator and obtained further information about Mr Hall's relationship with Ms Foster, as well as details about his recent behaviour and mood. They also asked Mr X where Mr Hall might have gone. Mr X believed that, if Mr Hall had shot and killed Ms Foster, he would not leave her and he told the officers that he thought Mr Hall would kill himself.
13. Officers B and C were then instructed by Officer R to ask Mr X to accompany them back to the SFP so he would be available to help them as the incident unfolded.

---

<sup>1</sup> A safe gathering point for briefings, and the allocation of roles and equipment.

<sup>2</sup> Fire orders instruct officers to always be aware of their personal responsibilities in the use of firearms. The fire orders remind officers of relevant sections of the Crimes Act 1961 and set out the circumstances in which the use of lethal force is justified.

### Police speak to Mr Hall on his mobile phone

14. At around 9.45pm, Officers B and C drove Mr X to the SFP. While on their way, Mr X agreed to ring Mr Hall on his mobile phone to find out where he was. Mr X tried calling Mr Hall several times. When Mr Hall finally answered his phone, one of the first things he said was, *"I've really fucked up. I'm not going to jail, this ends tonight"*. The call was on speakerphone, so the officers could hear. Mr X asked Mr Hall where he was and offered to pick him up. Mr Hall did not say where he was, but kept on saying he had *"fucked up"* and was going to kill himself. Mr X urged him not to kill himself and not to hurt anybody else.
15. Officer C told the Authority that Mr Hall became angry when he realised that Mr X was with the Police. He said that Mr Hall began shouting and became aggressive. Officer C then asked Mr X to ask Mr Hall if he wanted to speak to a Police officer. Mr Hall agreed to speak with Police.
16. Officer C spoke to Mr Hall for approximately 20 minutes. As the call progressed Officer C realised that Mr Hall was driving. Officer C told the Authority that during the conversation Mr Hall was *"screaming"* and *"irrational at times but then at other times he's very clear"*. Mr Hall made threats to shoot himself and Police. Officer C recalled that Mr Hall said, *"If anyone tries to stop me I'm going to shoot them."* Officer C also recalled him saying, *"I know the cops are there... there's a car behind me, if they try and stop me I'm going to shoot them, then I am going to shoot myself"*. Officer B was able to record part of the conversation on his mobile phone, including Mr Hall making a threat to shoot Police.
17. While Officer C was still on the phone with Mr Hall, Officer B updated CentComms with the information outlined in paragraphs 14 and 16 above. At around 9.58pm Officer B informed CentComms that Mr Hall had threatened to shoot at Police if they tried to stop him.
18. When Officers B and C arrived at the SFP, Officer C was still talking to Mr Hall on the phone. Officer C repeatedly asked Mr Hall to pull over, stop his car and put down his firearm. Officer C told Mr Hall he would not get hurt if he put his gun down.
19. Officer C told the Authority that at the end of the conversation, he believed that Mr Hall *"was trying to set the Police up for suicide by cop."*

### Mr Halls movements after he left Ms Fosters address.

20. In the meantime and unknown to Police or Mr X, shortly after Mr Hall first called Mr X, he had driven to the house of Ms Y (a family member) in Napier. Mr Hall told Ms Y that he had shot and killed Ms Foster. Ms Y later described Mr Hall as being hysterical, shouting and swearing that he could not believe what he had done and saying that he was going to have to go to a quiet place to kill himself. Despite Ms Y trying to persuade him to stay, Mr Hall soon left the address in his Corolla.

21. After leaving Ms Y's house. Mr Hall went to the house of Mr Z (another family member) in Hastings, arriving at around 9.30pm. Mr Z went to the front door when he heard the sound of a car approaching. When he opened the front door, he immediately saw Mr Hall standing in front of him with a bottle of alcohol in one hand and a shotgun in the other.
22. After a brief visit, Mr Hall left Mr Z's address and drove off in the Corolla. At 9.39pm Mr Z called Police to report Mr Hall's unusual behaviour and his concerns at seeing the shotgun and alcohol. During that call, Mr Z described the vehicle Mr Hall was in and was able to provide a partial registration.

#### **Napier Police clear Ms Foster's address.**

23. After CentComms broadcast the information that Mr Hall had just been seen in Hastings, officers from the SFP entered Ms Foster's address. They found Ms Foster dead in her kitchen. Her injuries were consistent with a gunshot wound.
24. A crime scene was established, with steps taken to secure and preserve evidence. Detectives were also called out.

#### **Hastings AOS officers deploy**

25. At 9pm on the evening of 26 October 2015, AOS Officer F was on duty working in the custody area at Hastings Police station. Shortly after 9pm, Officer R called Officer F over the radio to ask him if he was aware of Mr X's call (see paragraph 3). Officer F said he was not, and he then read through the communications log to inform himself about what had occurred.
26. Officer F then phoned the AOS Commander who was off duty at the time to advise him of the circumstances. In addition, Officer F contacted other members of the Hastings AOS team, including Officers J and K, to let them know that a call-out was likely and asking them to be ready to respond.
27. Following Officer F's call, the AOS Commander then liaised with Officer R and provided tactical advice on how the SFP officers should approach Ms Foster's address. (At this stage Police still believed that Mr Hall could be inside.)
28. At approximately 9.35pm, AOS Officer D arrived to start a night shift and was told about the incident by Officer F. Officer D was a uniformed frontline supervisor, but was also the AOS team leader for the Hastings section. Officer D immediately got ready to respond with his AOS weapons and equipment.
29. Officer D called the AOS Commander to discuss the incident. He let him know which Hastings AOS members were available and that they were getting ready, so they could be sent to Mr Hall's location. When AOS Officer H arrived, he also began to get ready. Officer D reminded Officers H and F of Police Fire orders (F061).
30. In the meantime the AOS Commander had decided that the whole Hawkes Bay AOS should be called out. This was done by sending a secure message similar to a page to all AOS officers'

mobile phones. At the time of this incident the AOS Commander could not send this out remotely. This meant there was a short delay until CentComms were asked to send out the secure message, which they did at 10.11pm.

31. The AOS Commander then drove to Hastings Police station to deploy in the AOS command vehicle along with PNT (Police Negotiation Team) officers.
32. All officers can be in radio contact through the main channel operated by CentComms. In addition, the AOS have a separate channel which is encrypted. However, it has a limited range and only AOS equipped officers have access to the channel. The AOS team in this incident used a mix of both channels as well as their cell phones to communicate.

### Police locate Mr Hall

33. At approximately 9.39pm, Officer A (a uniformed traffic officer) was in an unmarked Police car in Hastings when he heard over the radio that Mr Hall had visited Mr Z's address in Hastings (see paragraph 21). He began to search the area for him.
34. A short time later, Officer A saw a car matching the description given. Officer A managed to get behind the car in Warren Street, Hastings and advised CentComms he was behind the Corolla and gave the full registration number. CentComms confirmed that it matched the description of the car they were seeking.
35. Officer A was aware that the driver was Mr Hall and that he was suspected of shooting Ms Foster. Officer A also knew that Mr Hall had been seen with a shotgun by Mr Z only a few minutes earlier. Officer A therefore decided not to try and stop Mr Hall, but to follow the car from a distance and report its location and direction of travel until armed officers could take over.
36. As the Corolla turned right into Aubyn Street, Officer A followed, keeping about 50 meters behind it. Officer A saw that the Corolla was weaving back and forth across the road. Mr Hall then turned right at the intersection with Willowpark Road and headed south. Officer A continued to follow the Corolla as it turned right into Heretaunga Street towards Russel Street.
37. At approximately 9.45pm, Officers D, F and H got into a marked Police vehicle and followed the radio commentary provided by Officer A to locate Mr Hall. Officer H was driving and Officer D was the front seat passenger and in charge of operating the radio. Officer F was in the back.
38. As Officer A approached the intersection with Karamu Road, the marked Police car containing the three Hastings AOS officers came up behind him with flashing red and blue lights activated. Officer A pulled over to allow the AOS car to pass. The AOS car was followed by a marked Police dog wagon driven by AOS Officer I.
39. Moments after the AOS took over from Officer A, Officers B and C provided the updates to CentComms about Mr Hall threatening to shoot Police (see paragraph 16).

## AOS begin following the Corolla

40. Although the AOS car's red and blue lights were activated, Mr Hall did not pull over and stop. When a vehicle fails to stop, the Police Fleeing Driver policy instructs officers to contact Comms and report a 'failing to stop'. Comms are then required to give the 'pursuit warning'<sup>3</sup> before the pursuit commences.
41. In this situation, both the pursuing officers and CentComms did not treat this as a typical fleeing driver incident. They considered it a dynamic firearms incident involving an extremely dangerous man. Therefore priority was given to AOS making the required tactical decisions rather than complying with the fleeing driver policy.
42. Officer H told the Authority that once it was clear that Mr Hall wasn't going to stop he switched his car's headlights onto full beam and also activated additional spotlights on the cars light bar so they could get a clearer view of the Corolla.
43. Officer H stated he could see what he believed was *"the barrel of the shotgun. I assumed he was driving with it between his legs as you could see it coming from side to side and at times it was pointing out the window, his driver's side window"*.
44. Once the AOS car was behind the Corolla, CentComms requested that Officer D take over the role of Incident Controller<sup>4</sup>. Officer D accepted this role but also reminded CentComms that he was deployed in his capacity as an AOS Team Leader.
45. At this time Officer L was in a marked Police car at the intersection of Heretaunga Street and Karamu Road. He was listening to the radio transmission and monitoring the direction the Corolla was travelling. Officer L told the Authority that the Corolla came straight towards his location. Officer L tried to seek permission from CentComms to use road spikes, but due to the radio being busy he could not get through.
46. Officer L knew the urgency of the situation and decided it was important to try and stop Mr Hall, so he made the decision to use road spikes to try and stop the Corolla. The spiking was successful, causing at least two of the Corolla's tyres to be punctured.
47. After the Corolla was spiked Mr Hall drove erratically, speeding up to approximately 40 kph and then slowing down and weaving across the road. Officer D told the Authority, *"he drove up very close to a car and I was concerned that he was going to ditch the car [the Corolla] and get out and try and either take a hostage or carjack the car seeing his was in a damaged state."*
48. As Mr Hall drove along Railway Road past the racecourse, Officer D reported hearing a loud bang, which he thought was either a shot being fired or one of the Corolla's tyres bursting (it was in fact a shot).

---

<sup>3</sup> Pursuit warning is "If there is any unjustified risk you are to abandon pursuit immediately". This reminds officers of the need to prioritise the safety of all road users.

<sup>4</sup> The officer responsible for managing the Police response to an incident. Under Police radio protocols, the communications centre shift commander is the incident controller until that role is formally handed to a field commander.

49. Following the shot, the AOS cars tried to keep back from the Corolla to minimise the risk to officers. However, when Mr Hall got close to any other vehicles or pedestrians the AOS cars closed in ready to intervene. In response Mr Hall increased his speed and continued on.
50. Later, further along Railway Road, another officer requested permission to further spike the Corolla. However, Officer D was concerned that, if Mr Hall was stopped while they were still in a built up area, members of the public could be put at increased risk if Mr Hall started shooting and the AOS had to respond. Officer D was conscious that there were only limited AOS officers available at that time to deal with a potential stand-off. He therefore refused permission for the Corolla to be spiked again.
51. While they were following Mr Hall, the AOS officers considered what tactics they would deploy should Mr Hall suddenly stop or fire at the Police or members of the public. Officer D told the Authority that they were ready to perform a 'non-compliant vehicle stop'<sup>5</sup> if necessary.
52. In the meantime, Officers J and K had responded to the callout and were getting kitted up at Hastings Police station when they heard over the Police radio that Mr Hall was starting to head in the direction of the Police station.
53. Officer D told the Authority he was concerned that Mr Hall might fire at officers at the Police station. He used his secure AOS radio to broadcast his concerns to Officers J and K. In response to this, they remained at the station ready to respond if Mr Hall should continue to head towards them.
54. When Mr Hall changed direction and headed away from the Police station, Officers J and K left the station to catch up to the AOS vehicles pursuing Mr Hall. Both officers told the Authority that they turned their minds to the Police Fire Orders (FO61). A few minutes later Officers J and K caught up with the other AOS cars.
55. In the next few minutes Mr Hall drove around the centre of Hastings before heading out of town along Karamu Road North. As Mr Hall left Hastings on State Highway 2 (SH2) he fired two more shots out of the Corolla's window. There were no reports of damage or injury as a result of the shots.
56. The second shot happened as Mr Hall was travelling about 25-30kph. The sound of the shot was heard by Officer C while she was speaking to Mr Hall on the phone (See paragraphs 16). The sound was also transmitted over the Police radio as it was picked up during a transmission from one of the following AOS cars.
57. At this time Officer I was providing the radio commentary and broadcast that shots had been fired. He also reported that there was almost no other traffic on the road. At this point, the AOS Commander was in a car with members of the Police Negotiation Team. They were following some distance behind the AOS cars.

---

<sup>5</sup> A 'Non-compliant vehicle stop' is when the following Police vehicles perform manoeuvres that force the fleeing vehicle to stop. This is a tactic that AOS officers are trained to use in emergency situations.

58. The driver of the lead AOS car, Officer H, stated that they had just hit a patch of fog when they heard the second shot. At the time, they had the windows of the Police car down in case they needed to respond quickly. Officer H told the Authority that he believed, from the intensity of the sound, it was a shotgun blast and that it was directed towards them.
59. The AOS Commander considered the tactical options available to the AOS to contain Mr Hall. When Mr Hall started to head out of Hastings towards Clive along SH2, the AOS Commander decided that a roadblock would be needed to stop Mr Hall. He wanted to prevent Mr Hall reaching Napier. The AOS Commander believed that he was now responding to an 'active shooter'<sup>6</sup> situation (see paragraph 120).
60. Due to the risk and urgency created in an active shooter situation, the AOS Commander gave a direction over the radio that non-AOS staff should keep back and that the AOS would continue to take the lead in dealing with Mr Hall.

### **Napier AOS officers are deployed**

61. In the meantime, the Napier based AOS officers had started arriving at the Napier Police station, in response to the callout. Officers M and N were the first to arrive and put on their AOS equipment.
62. At approximately 10.25pm they started driving towards Clive in a marked Police vehicle. Officer M was the driver. Both officers discussed Police Fire Orders (FO61) while driving.
63. Officers E, O, P, and Q arrived at the station next and put on their AOS equipment. All four got into a marked Police vehicle, driven by Officer O, and headed towards Clive. Officer E also discussed Police Fire Orders (FO61) with his officers.

### **Napier AOS officers set up road block**

64. The AOS Commander instructed the Napier AOS officers to set up a road block along SH2 in the vicinity of the Ngaruroro or Tutaekuri-Waitangi bridges. He did not think that Napier AOS could reach Mr Hall before he reached Clive, so his plan was to prevent Mr Hall getting as far as Napier.
65. After liaising with the AOS Commander, Officer E made the final decision on the placement of the road block. He chose to set up the road block at the southern end of the bridge over the Tutaekuri River. This was the second of the two bridges on the road from Clive to Napier.
66. Officer E knew that the road, although still two lanes across the bridge, would provide a point that could be easily blocked. He was also aware that there were no houses in the immediate area and the bridge was surrounded by fields.

---

<sup>6</sup> An 'active shooter' is an armed offender who is either discharging shots with reckless disregard or purposeful intent, and poses an immediate and serious threat to life.

67. Officer E was keen to ensure that Mr Hall could be contained with minimal risk to the public. He told the Authority that he did not want any members of the public caught on the bridge between Mr Hall and the AOS Officers. He therefore chose to place the road block at the southern end of the bridge, the direction from which Mr Hall was approaching.
68. When the Napier AOS officers reached the Tutaekuri River bridge, Officer O used his Police car to block both lanes of the road. He positioned his Police car across the entrance to the bridge where the steel barriers start. Road spikes were then laid across the road in front of the Police car. Officer Q was sent on foot to the other side of the bridge to stop traffic heading towards Clive from Napier.
69. At approximately 10.45pm Officers M and N arrived at the bridge and parked their Police car to the left of the road block. The red and blue lights on the car were flashing. All the AOS officers took cover to one side of the road block ready to advance and challenge Mr Hall when he reached it.
70. While the Napier AOS officers were waiting they did not have a general duties radio with them, only their own AOS encrypted radios. This meant they could not hear any updates regarding Mr Hall's current location.
71. Officer E broke cover on two occasions when he saw headlights approaching. When he identified them as cars belonging to members of the public he directed the drivers to turn around and leave the area. Before returning to his position of cover, Officer E turned up the volume on the radio inside one of the Police cars, so that they could hear the updates relayed on the main radio channel.
72. As the Hastings AOS officers relayed over the main channel that they were getting closer to the bridge, Officer E told the Authority that he *"yelled out my plan to all my staff that if the vehicle (the Corolla) stops short of our road block that the Hastings staff will engage if necessary. If the offender comes into our road block then we will engage"*. Officer E then relayed this plan over the AOS radio, so that Officer D and the other Hastings AOS officers knew his plan. Officer E also yelled out *"F61"* and warned all his staff about the dangers of crossfire.
73. When responding to incidents where somebody has used or is threatening to use a gun the AOS's primary operational response is to 'Cordon, Contain and Appeal'. This procedure has been developed and adopted by Police as an effective means of responding to armed incidents. When cordons are established the public are evacuated and kept away from the threat. This then allows the AOS to focus on containing the threat and start the process of contacting the subject and appealing to them to surrender. The goal is always to keep the public and Police safe while trying to detain the offender with the least amount of force.
74. The setting up of the roadblock gave the AOS the opportunity to 'Cordon, Contain and Appeal' Mr Hall. The AOS Commander knew that, unless they stopped the Corolla, they could not readily control where Mr Hall went and that, as he was an active shooter, this placed the public in great danger. It was imperative that they contain him at a location where, if shots were fired, the risks to the public would be as low as possible.

### Napier AOS engage Mr Hall

75. At approximately 10.54pm Mr Hall approached the roadblock, followed by the Hastings AOS cars. The Hastings AOS stopped approximately 60 metres before the roadblock to allow a safe gap between themselves and the Napier AOS officers. The Hastings AOS officers wanted to reduce the risk from any potential crossfire if shots were fired.
76. Mr Hall drove the Corolla right up to the roadblock, driving over the road spikes and nudging into one of the Police cars, but he could not force his way through. Officers E, O, and P approached the Corolla and aimed their M4 Bushmaster rifles at Mr Hall. He was illuminated by the light from the torches mounted on the rifles.
77. Officers E, O and P shouted instructions at Mr Hall. Officer E told the Authority, *'I started yelling at him, so did the other two, "armed Police, you're under arrest, get out of the vehicle, drop the weapon", over and over again, "you're under arrest".'*
78. Officer E told the Authority he had a very good view of Mr Hall and said, *"As I was yelling at him I saw the barrel of a shotgun come into view, and the end of the barrel was just below his mouth. He then lowered his head over the barrel and put the barrel right into his mouth",* Officer E went on to say that he believed that Mr Hall was going to commit suicide in front of them.
79. Officers O and P also saw Mr Hall with the shotgun in his mouth and believed he was going to shoot himself. Mr Hall did not respond to the officers' challenges to drop his weapon and get out of his vehicle.
80. With the shotgun still in his mouth, Mr Hall managed to slowly reverse the Corolla, turn the vehicle around and proceeded to travel back in the direction of Clive. Officer E immediately shouted to his colleagues to take cover and alerted the Hastings AOS officers over the AOS radio that Mr Hall was out of the road block and heading towards them.
81. The Hastings AOS officers had also heard the Napier officers shouting at Mr Hall and were aware that he had been told he was under arrest.

### Hastings AOS engage Mr Hall

82. Mr Hall drove slowly towards the three Hastings AOS vehicles. The officers had stopped their cars in a staggered manner in a row facing down the road towards the bridge. This meant that the main carriageway was almost fully blocked by the three cars. However, there was also a hard shoulder and a grass verge on either side of the road that Mr Hall could potentially use.
83. Mr Hall's vehicle by this time was seriously affected by the damage caused by the road spikes. Both the front and rear wheels on the driver's side had no tyres left and were being driven on the rims. The front passenger side tyre was also deflated.

84. Officer H had remained in the driver's seat of the lead Police car. He told the Authority that he could hear the Corolla *"revving it flat out, gunning it, but it took a little while to get a bit of speed up. He's (Mr Hall) come straight towards me and then veered around...and he's gone past on my left-hand side."*
85. The Hastings AOS officers were not aware that Mr Hall had the shotgun in his mouth. They knew only that he was an active shooter who had driven off from a roadblock after being told he was under arrest, and was now driving towards them accelerating as he did so.
86. Officers D and F were out of their Police car and had taken up a shooting stance against the side of their car. They aimed their rifles at Mr Hall as he accelerated towards them. Officers I, J and K also got into position and aimed their rifles at Mr Hall. The Hastings AOS officers were all aware that they could not fire until they knew that their Napier colleagues would not be caught in their line of fire.
87. When the Corolla got closer to the Hastings AOS officers and the Napier roadblock was no longer in their line of fire, Officer F fired at Mr Hall. In total Officer F fired six shots. Almost at the same time Officer J fired two shots and then a split second later Officer D fired one shot.
88. Officer J told the Authority he acted in self-defence and to protect fellow officers who were at risk from Mr Hall's vehicle and potential shots, saying: *"initially I was thinking, okay he's actually going to ram us. So there was the fact that he's armed, he's been firing, he's killed someone, he's going to now try to run us over as well, so I was thinking self-defence of myself, I was thinking self-defence of Officer K and all the other guys because of the fact that he's got his firearm and I was absolutely expecting him to be firing back at us as he's driven past."*
89. Officer D also told the Authority that while it is not normal practice to shoot at a moving vehicle, he felt it was justified because it was an exceptional circumstance. He considered he was acting in self-defence and additionally that Mr Hall's escape could not be prevented in a less violent manner. He was very concerned that, if Mr Hall was not contained by the roadblock, unarmed Police staff and the public would again be placed in danger.
90. Mr Hall drove onto the grass verge to make his way past the AOS cars and then drove back onto the road. The Authority believes that the only injury Mr Hall sustained following these shots was a cut to his finger caused by some glass from the Corolla's shattered window.
91. Mr Hall continued past the Hastings AOS cars, travelling back towards Clive. The Hastings and Napier AOS officers returned to their vehicles and quickly started to follow Mr Hall. Officers J and K were in the lead car and soon caught up with Mr Hall.
92. Officer K told the Authority that as the lead vehicle he was considering the need to perform a 'non-compliant vehicle stop', a tactic used to force a car to stop, and raised this tactical option over the AOS radio. However, before a decision was made on whether to use this tactic, the Corolla came to a stop on Main Road in Clive at the intersection with Mill Road. This intersection is boarded by a café, an early learning centre and some residential properties.

93. Officer J stopped before the intersection and got out of his car taking up position behind the engine block. Officer K initially remained in the car and aimed his rifle out of the window towards the Corolla.
94. Further AOS vehicles arrived and stopped behind Officer J's car. Officers E, J and P decided to move forward to a position where they could better see into the Corolla. In a co-ordinated manner they moved forward to the cover provided by a power company box situated nearer the Corolla on the side of Main Road.
95. Officer E trained his rifle directly on the Corolla. He repeatedly shouted at Mr Hall that they were armed Police, that he was under arrest, and that he was to drop his weapon and get out of the car with his hands up. Officer J also shouted similar instructions.

### Officer E fires shots at Mr Hall

96. As they were shouting at Mr Hall, Officer E noticed that there was a house directly behind his line of fire and drew both Officers J and P's attention to this risk, indicating the need to aim low.
97. Officer E told the Authority that he could not see Mr Hall, but assumed he was lying across the car seats. Officers J and E told the Authority that they saw Mr Hall point his shotgun out the driver's window. They then saw the barrel of Mr Hall's shotgun move back towards their position.
98. Officer E told the Authority that he knew Mr Hall had previously fired shots. He feared that Mr Hall was about to kill or seriously harm him or one of the other officers. Officer E then fired five shots at the Corolla. He aimed low into the back of the driver's seat.
99. After a short time, Officer E made the decision to approach the vehicle, along with Officers J, P and F. By then they believed that Mr Hall had been shot, as there was no movement from within the Corolla.
100. As they approached, they saw Mr Hall lying across both seats with the shotgun behind and partly underneath him, with the end of the barrel pointing towards the driver's door. They pulled Mr Hall from the vehicle and removed the shotgun. Officer J noted that Mr Hall had gunshot wounds and appeared not to be breathing.

### Aftercare

101. Officers P and K, are the designated medics on the Hawkes Bay AOS. They have received advanced first aid training and carry basic medical supplies when deployed. As soon as the shotgun was secured they attended to Mr Hall. They provided vital first aid until they were relieved by Ambulance paramedics.
102. St John Ambulance was called at 10.57pm and arrived within a few minutes. Paramedics took over the treatment of Mr Hall and took him to hospital. Mr Hall received three gunshot wounds, which injured his leg, stomach and hand.

## Police investigation

103. Police conducted a homicide investigation into Ms Foster's death. Mr Hall was charged with her murder while he was in hospital. Following his release from hospital he was remanded into custody. Mr Hall has subsequently been convicted of Ms Foster's murder as well as other offences including dangerous driving and discharging a firearm. On 10 March 2017 he was sentenced to life imprisonment.
104. Police also carried out a criminal investigation into the shooting of Mr Hall, and determined that the use of force by Officers E, F, J and D was justified in the circumstances.
105. The Police also conducted a Policy, Practice and Procedure review.

## LAWS AND POLICIES

---

### Use of Force by Police

106. Section 39 of the Crimes Act 1961 provides for Police officers to use reasonable force in the execution of their duties such as arrests. 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.*"
107. Section 48 of the Crimes Act 1961 states: "*Everyone is justified in using, in 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.*"
108. Section 62 of the Crimes Act 1961 makes a Police officer criminally responsible for any excessive use of force.

### Police policy on use of force

109. 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 a person, effect an arrest or otherwise carry out lawful duties. These include communication, mechanical restraints, empty hand techniques (such as physical restraint holds and arm strikes), pepper spray, batons, Police dogs, Tasers and firearms.
110. 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 (Threat, Exposure, Necessity and Response) assessment.

111. 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 option (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's 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)).
112. A key part of an officer's decision to decide when, how, and at what level to use force depends on the actions, 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.
113. The policy states that 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.

### Use of firearms

114. The Crimes Act provisions are mirrored in Police General Instruction F061 (Fire Orders) in the 'Police Firearms' chapter of the Police Manual. F061 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 also sets out the circumstances in which the use of lethal force is justified.
115. General Instruction F061 provides for the use of firearms by Police officers to defend themselves or others if they fear death or grievous bodily harm and cannot reasonably protect themselves or in a less violent manner.
116. General Instruction F061 directs that an offender is not to be shot until all of the following conditions have been satisfied:
- *“they have first been asked to surrender (unless it is impractical and unsafe to ask them)*
  - *it is clear that cannot be disarmed or arrested without first being shot*
  - *further delay in apprehending the offender would be dangerous or impractical.”*
117. In operational situations where firearms are issued, General Instruction F061 also requires that an officer's attention is drawn to the fire orders printed in their Police issue notebook *“if time and circumstances permit”*.

118. Police policy also requires officers to notify their immediate supervisor and the Police Communications Centre of their decision to deploy with firearms.

119. The Police Manual states that authorised ballistic body armour must be worn when a firearm is carried or when Police attend or expect to attend an armed incident.

### Active shooter

120. An 'active shooter' is an armed offender who is either discharging shots with reckless disregard or purposeful intent, and poses an immediate and serious threat to life within a defined area.

121. When responding to an active shooter incident, if the actions of the active shooter permit, Police should:

1. take time to cordon the area;
2. contact specialist groups such as the AOS; and
3. adopt the wait and appeal role to negotiate surrender.

122. Deployment in response to an active shooter should be aimed at locating and neutralising the threat. The immediate danger of casualties may require action beyond the traditional cordon and contain response. In some situations, Police must rapidly assess the situation and act quickly in order to save lives.

## THE AUTHORITY'S FINDINGS

---

### Issue 1: Did Police take all reasonable steps when responding to a potential homicide following the initial call from Mr X.

123. Mr X told the CentComms communicator that he had just received a phone call from Mr Hall, during which Mr Hall told him that he had shot his girlfriend. Mr X told the communicator that he believed that Mr Hall was serious and said that Mr Hall had told him to call the Police.

124. The communicator recognised the seriousness of the information provided by Mr X and sought further facts so that Police could take appropriate action. In particular the communicator got an address for the victim and further details about Mr Hall and his access to firearms.

125. CentComms were swift to alert frontline staff and assisted in setting up a SFP. It was recognised that they did not know where Mr Hall was and they correctly responded on the basis that he was potentially armed with a firearm.

126. Officers dispatched to Ms Foster's address were armed and individual field supervisors reminded staff of Police Fire Orders (FO61). An incident controller was appointed to take control of the situation and direct resources at the SFP. Sufficient general duties officers were available and properly equipped to respond to the situation.

127. As Police did not know if Mr Hall was still in Ms Foster's house, Police followed correct procedure in establishing a SFP and establishing cordons around Ms Foster's address.
128. Officers B and C were sent to see Mr X and subsequently made contact with Mr Hall by phone. Officers B and C ensured that information they got from Mr Hall was passed over the radio to those in charge of the developing incident.
129. When Mr Z called Police to say that Mr Hall had just left his house in Hastings carrying a shotgun, this information was immediately broadcast by CentComms. Hastings officers, including Officer A, then began to look for Mr Hall and his Corolla.
130. Once it was known that Mr Hall had just been seen in Hastings, officers from the SFP entered Ms Foster's Napier address.
131. Ms Foster's home was treated as a crime scene and the necessary steps taken to secure and preserve evidence.
132. AOS officers already on duty at Hastings Police station identified that this unfolding incident would need an AOS deployment. These officers showed initiative and began to prepare for immediate deployment (see paragraphs 25-29).

#### FINDING

Police took all reasonable steps when responding to Mr X's initial call about the shooting of Ms Foster.

#### Issue 2: Did officers comply with policy and procedure when arming themselves?

133. All staff involved in this incident, including general duties officers and AOS, were correctly armed to respond to Mr Hall, who they knew was armed with a loaded shotgun. Mr Hall had just shot his former partner and had made threats to shoot Police. All officers were given permission to carry firearms and they were reminded of the obligations set out in Police Fire Orders (FO61).
134. All officers involved had received the required firearms training and their training and certification was current.
135. The officers who armed themselves were correctly equipped and all wore the required ballistic body armour.

#### FINDING

All Police involved in this incident were properly armed and followed Police policy and procedure in relation to their responsibilities when carrying firearms.

### Issue 3: Did Police respond appropriately to the developing situation after Mr Hall was located?

136. When Officer A located the Corolla in Hastings, he was able to keep the Corolla under observation without alerting Mr Hall to his presence. Officer A relayed information to CentComms about Mr Hall's location and manner of driving, and awaited the arrival of the AOS officers.
137. Officers D, F and H were the first AOS officers to take over from Officer A. They took up position behind the Corolla with their cars' red and blue lights flashing, signalling Mr Hall to stop. The AOS officers continued to follow him and were soon joined by further Hastings AOS officers.
138. Officer L saw an opportunity to spike the Corolla and potentially contain Mr Hall. As discussed in paragraph 46, he knew that the situation was urgent and due to the radio being busy he did not have time to seek permission from CentComms. The Authority accepts that this was a dynamic situation and Officer L's decision to spike the Corolla was justified.
139. As discussed in paragraph 50, Officer D refused permission for a further use of road spikes, as he decided that it was too risky to stop Mr Hall in a built up area. The Authority recognises that Officer D made this assessment having considered the potential risks to the safety of his colleagues and members of the public. The Authority therefore considers this was an appropriate tactical decision.
140. The AOS Commander was following some distance behind the lead AOS car and had a good overview of the situation. In particular he was aware that he had Napier AOS staff travelling from Napier towards Clive. This gave him an opportunity to arrange for them to set up a roadblock ahead of Mr Hall.
141. The AOS Commander was in overall command of the AOS response and the Authority agrees that Police were dealing with an active shooter (see paragraphs 120-122 for policy). It was important to stop Mr Hall so that the AOS could contain Mr Hall and challenge him to surrender. After liaising with Officer E they selected an appropriate location away from built up areas (see paragraph 67-69).
142. The Napier AOS officers and the approaching Hastings AOS officers were able to use the AOS radio once they were within range. A plan was agreed that Napier AOS would be responsible for approaching Mr Hall if he drove up to the roadblock. If Mr Hall turned around or stopped before the roadblock, then it was understood that Hastings AOS would approach Mr Hall and instruct him to surrender. This plan minimised the risk of cross fire and meant all staff had a clear understanding of their roles.
143. As it happened, Mr Hall drove the Corolla right up to the roadblock driving over the road spikes and nudging into one of the Police cars, but he could not force his way through. Officers E, O, and P approached the Corolla and aimed their M4 Bushmaster rifles at Mr Hall.

144. Mr Hall was told he was under arrest and instructed to get out of the vehicle with his hands up. When Mr Hall placed the shotgun in his mouth, Napier AOS officers did not fire, as they decided that Mr Hall was not a direct threat to them at that point but was instead going to commit suicide.
145. When Mr Hall reversed the Corolla away from the roadblock, he still had the shotgun in his mouth. The Napier AOS therefore did not believe that they were in imminent danger. When Mr Hall started to head towards the Hastings AOS, the Napier officers followed the plan and took cover knowing that the Hastings staff would then take the lead in preventing Mr Hall's escape.
146. The Authority believes that the Napier AOS officers correctly assessed the circumstances and were right to not shoot at Mr Hall.

#### FINDINGS

Police responded swiftly and appropriately to the developing situation.

The use of a roadblock was an appropriate tactic to try to contain Mr Hall who was considered to be an active shooter.

The Napier AOS made the correct decision not to shoot at Mr Hall when he put the shotgun in his mouth.

#### **Issue 4: Were Police justified in shooting at Mr Hall when he drove his vehicle towards the Hastings AOS?**

147. Sections 39 and 48 of the Crimes Act 1961 provide legal justification for Police to use reasonable force to arrest an offender and in defence of themselves or another. However, any force used must be the minimum necessary to achieve the objective and reasonable under the circumstances as they believe them to be. The Police Tactical Options Framework guides Police in determining the appropriate level of force to use in certain situations (see paragraphs 109-113 for the Law and Police policy on use of force).
148. Police policy provides that potentially lethal force may be used when an offender presents a threat of death or grievous bodily harm. Officers must give an offender the opportunity to surrender if practicable, and must employ less lethal tactical options to effect an arrest or disarm an offender if they are available. However, if further delay in apprehending the offender would be dangerous or impracticable, officers are justified in firing at an offender.
149. All AOS staff involved in the incident were aware that Mr Hall had potentially shot and killed his former partner. They were also aware that he had threatened to shoot himself and shoot Police. He had fired his weapon from the Corolla at least three times. Officer I had also reported his belief that Mr Hall was aiming at Police as they pursued him.

150. The Hastings AOS officers were also aware that Mr Hall was an active shooter who had driven off from a roadblock after being told he was under arrest, and was now driving towards them, accelerating as he did so.
151. Officers D, F and J fired into the Corolla as it passed them. Mr Hall was an active shooter, so the obligation on the Police was to contain, and, if this was not possible, to incapacitate him.
152. The Authority is satisfied that Mr Hall was given an opportunity to surrender. As the road block had not been successful in containing him, the Authority accepts that there was no other realistic option left to Police to stop Mr Hall breaching the cordon, and heading into nearby Clive where he would pose a risk to the public and other Police staff.
153. The Authority also accepts that the Hastings AOS officers believed that that Mr Hall might use the Corolla as a weapon or fire at them with the shotgun, and that this posed a risk of death or serious harm. As Officer J told the Authority, *“he’s going to run us over, so I was thinking self-defence... and I was absolutely expecting him to be firing back at us as he’s driven past”*.
154. Having carefully considered all the circumstances, the Authority is satisfied that Officers J, D and F made independent, simultaneous decisions to shoot at Mr Hall. They were facing an active shooter who they believed needed to be stopped and in the circumstances his arrest could not be attempted in a less lethal manner.

#### FINDING

In the circumstances, Officers D, F and J were justified in shooting at Mr Hall when he tried to flee from the roadblock on the bridge.

#### Issue 5: Were Police justified in shooting at Mr Hall when his car came to a stop in Clive?

155. After Mr Hall’s Corolla came to a stop in the centre of Clive, the pursuing AOS vehicles stopped behind the Corolla. The AOS officers began to take up positions around the car whilst maintaining cover. The AOS officers then trained their rifles on the vehicle. After giving repeated instructions to Mr Hall to put down his weapon, Officer E saw the shotgun barrel being positioned through the open driver’s side window and begin to move in his direction. Fearing he was about to be shot, Officer E fired five shots at the Corolla, three of which injured Mr Hall.
156. The Authority finds that Officer E was justified in shooting Mr Hall, as he honestly believed that he and his colleagues were in imminent danger of suffering death or grievous bodily harm. There were no other tactical options available that could have countered the immediate danger posed by Mr Hall while at the same time ensuring no officers or members of the public were put in further danger.

157. Officer E ensured that he fired low into the Corolla to prevent any bullets from passing through the car and potentially harming residents of the surrounding properties.

#### FINDING

Officer E was justified in shooting Mr Hall, as he believed that he and his colleagues were in imminent danger of suffering death or grievous bodily harm.

#### **Issue 6: Was all reasonable assistance given to Mr Hall after he was shot?**

158. Two trained AOS medics were attached to the team involved in the operation to arrest Mr Hall (Officers P and K).

159. As soon as Mr Hall was removed from his vehicle, both medics attended to his injuries and gave him first aid until Ambulance paramedics were able to take over.

160. The Ambulance then transported Mr Hall to hospital.

#### FINDING

Prompt and effective assistance was given to Mr Hall after he was shot.

## CONCLUSIONS

---

161. The Authority has determined that:

- 1) Police took all reasonable steps when responding to Mr X's initial call about the shooting of Ms Foster.
- 2) All Police involved in this incident were properly armed and followed Police policy and procedure in relation to their responsibilities when carrying firearms.
- 3) Police responded swiftly and appropriately to the developing situation. The use of a roadblock was an appropriate tactic to try to contain Mr Hall who was considered to be an active shooter.
- 4) The Napier AOS made the correct decision not to shoot at Mr Hall when he put the shotgun in his mouth.
- 5) In the circumstances, Officers D, F and J were justified in shooting at Mr Hall when he tried to flee from the roadblock on the bridge.
- 6) Officer E was justified in shooting Mr Hall, as he believed that he and his colleagues were in imminent danger of suffering death or grievous bodily harm.
- 7) Prompt and effective assistance was given to Mr Hall after he was shot.



**Judge Sir David Carruthers**

Chair  
Independent Police Conduct Authority

15 June 2017

**IPCA: 15-0817**

## ABOUT THE AUTHORITY

---

### Who is the Independent Police Conduct Authority?

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

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

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

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

### WHAT ARE THE AUTHORITY'S FUNCTIONS?

---

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

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

On completion of an investigation, the Authority must form an opinion about the Police conduct, policy, practice or procedure which was the subject of the complaint. The Authority may make recommendations to the Commissioner.



Whaia te pono, kia puawai ko te tika

PO Box 25221, Wellington 6146

Freephone 0800 503 728

[www.ipca.govt.nz](http://www.ipca.govt.nz)

---