



**IPCA**

Independent Police  
Conduct Authority

Mana Whanonga Pirihiimana Motuhake

# Motorcyclist dies in crash while fleeing Police in Christchurch

1. On 20 August 2023, Mr Z crashed his Harley Davidson motorcycle into a car at an intersection while fleeing from Police in Christchurch. Mr Z died at the scene. The driver of the car (Ms Y) received moderate injuries. Police notified us of the death as required by section 13 of the Independent Police Conduct Authority Act 1988.<sup>1</sup> We decided to conduct an independent investigation.
2. At about 11.40pm, Mr Z rode at speed past Officers A and B who were in a marked Police car, parked at a service station on Shirley Road.
3. The officers decided to stop Mr Z and caught up to him as he was turning from Hills Road onto Edgeware Road. Officer A activated the Police car's red and blue flashing lights and siren.
4. Mr Z failed to stop and accelerated towards a red traffic light at the intersection of Edgeware Road and Barbadoes Street. Mr Z drove through the red light and crashed into the side of a car that had entered the intersection from his left.

## The Authority's Findings

**Issue: Did Officers A and B comply with Police policy?**

Officer A was legally justified in signalling for Mr Z to stop.

Officers A and B were not justified in using a 'tactical approach' to catch up to Mr Z, and should have had the patrol car's lights and siren activated.

Officers A and B should not have pursued Mr Z and breached policy by doing so.

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<sup>1</sup> Section 13 says: "Where a Police employee acting in the execution of his or her duty causes, or appears to have caused, death or serious bodily harm to any person, the Commissioner shall as soon as practicable give to the Authority a written notice setting out particulars of the incident in which the death or serious bodily harm was caused."

We are satisfied the actions of Officers A and B did not cause the crash.

## Analysis of the Issues

### THE AUTHORITY'S ROLE

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5. After supervising a Police investigation or conducting an independent investigation, the Authority's statutory responsibility is to:

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

6. The Authority must convey its opinion to Police and may make whatever recommendations it regards as appropriate. The Authority's jurisdiction is wide ranging, and expressly includes reaching a view as to whether or not the Police should consider commencing civil (disciplinary) or criminal proceedings.
7. We describe what happened when the officers followed Mr Z and signalled him to stop. We then assess whether the officers' actions were justified. If we find their actions unjustified, we may recommend what action the Police should consider taking.

### ISSUE: DID OFFICERS A AND B COMPLY WITH THE POLICE POLICY?

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#### What happened?

8. At about 11.40pm, Officers A and B were parked at a Z Energy service station on the corner of Shirley Road and Marshland Road.
9. The officers heard a loud motorcycle approaching and saw it travelling at speed westbound along Shirley Road. They decided to stop the motorcycle to speak to the rider (Mr Z) about his speed. The posted speed limit was 50kph.
10. Officer A drove out of the service station, turned right onto Shirley Road, and saw the motorcycle's taillight in the distance. Officer A says he accelerated to approximately 80kph and started closing the distance between the Police car and the motorcycle. The Police car's flashing lights and siren had not been activated because the officers did not want to alert Mr Z of their presence while they were catching up (referred to as a 'tactical approach'). Officer A does not recall seeing any other vehicles on the road.
11. Officer B says he unsuccessfully attempted to assess the motorcycle's speed using the speed radar. They did not get close enough to the motorcycle for him to read the registration plate.
12. Mr Z turned left into Hills Road. Officer A says the motorcycle was "a little distance in front of me" at this point. The Police car drew closer to the motorcycle as Mr Z approached the intersection of Hills Road with Edgeware Road. Mr Z indicated a right turn.

13. Officer A says he was about 10 metres behind the motorcycle as it cut the corner into Edgware Road.<sup>2</sup> Both officers say that Officer A activated the Police car's lights and siren shortly after entering Edgware Road, and both saw Mr Z turn his head and look back at the Police car before accelerating heavily away, towards a red traffic light at the intersection with Barbadoes Street.<sup>3</sup> The motorcycle was travelling well in excess of 100kph.
14. Officer A says, although there had been no indication that Mr Z intended to flee prior to his activation of the lights and siren, it was clear to him that Mr Z was fleeing. Officer A says he did not intend to pursue Mr Z, so it was necessary to immediately *"deactivate the sirens and lights to let him know that I was not following him."* Officer A says he was very close to the intersection of Edgware Road and Champion Street when he deactivated his lights and siren and estimates that they were activated for about 3-4 seconds in total.<sup>4</sup>
15. Officer A slowed right down and estimates the motorcycle was around 200-250 metres ahead and accelerating toward the red traffic light at the intersection with Barbadoes Street.
16. Officer B also says he did not think a pursuit was justified in the circumstances as Mr Z did not pose a sufficiently high threat to warrant the risk created by pursuing him. He says Officer A deactivated lights and siren before the intersection with Champion Street and they slowed to approximately 40kph.
17. Officer B immediately radioed the Southern Emergency Communications Centre (Comms) to advise they were dealing with an urgent job: *"Comms, 12 Lima Priority."*<sup>5</sup> The Police car's siren can be heard in the background of this transmission, so Officer A had not yet switched it off. The dispatcher replied: *"Go ahead."*
18. Officer B estimates that approximately 1-2 seconds after his radio transmission to Comms the motorcycle entered the intersection and crashed into a car which had entered the intersection on a green traffic light.
19. Officer A radioed that a potentially fatal traffic accident had happened and asked for an ambulance to be sent immediately.
20. Officer B says: *"As soon as I heard the crash, Officer A took over the control, the Comms control ... and then slowly we, um, went to the intersection."* When Officer B was asked where they were when Officer A took over the Comms, he told us that was *"right before"* the Edgware-Barbadoes intersection.

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<sup>2</sup> The distance between Shirley Road and Edgware Road is around 570 metres.

<sup>3</sup> The distance between Hills Street and Barbadoes Street is around 450 metres.

<sup>4</sup> The distance between Champion Street and Barbadoes Street is around 260 metres.

<sup>5</sup> '12 Lima' was the radio call sign Officers A and B were using. 'Priority' signals the urgency of the communication to Comms and other radio users.

### What does CCTV footage show?

21. Five CCTV cameras recorded the motorcycle and the Police car as they travelled the route shown in Appendix A. The camera locations are marked on the route map. A Police Serious Crash Unit investigator calculated the motorcycle's and Police car's estimated speeds using the footage.

<b>Camera</b>	<b>Location</b>	<b>Observation</b>	<b>Estimated speed</b>
1	Shirley Road, around 160 metres from the intersection with Hills Road.	The motorcycle is travelling west on Shirley Road with the Police car approximately 8 and ½ seconds behind. There are no other vehicles on the road.	The motorcycle is travelling between 60–71kph and the Police car is travelling between 87–112kph.
2	Hills Road, around 300 metres south of the intersection with Shirley Road.	The motorcycle is about 4 seconds ahead of the Police car.	No estimated speed.
3	Corner of Hills Road and Edgeware Road.  This camera is angled so that it records vehicles travelling along Edgeware Road (away from the intersection with Hills Road).	The motorcycle comes into view on Edgeware Road. The Police car is 2 seconds behind and has its flashing lights activated. The footage shows both vehicles travelling away from the camera, towards Barbadoes Street.	The motorcycle is travelling between 83–96kph, and the Police car is travelling between 78–89kph.
4	Edgeware Road, around 140 metres west of the intersection with Hills Road, and before (east of) the intersection with Champion Street.	The motorcycle is about 2 seconds ahead of the chasing Police car. The Police car's flashing lights are activated, and the siren can be heard in the footage.	The motorcycle is travelling between 137–165kph, and Police car is travelling between 97–110kph.
5	Intersection of Edgeware Road and Barbadoes Street.	The motorcycle entered the intersection against the red traffic light and crashed into the side of Ms Y's car. The Police car approaches the intersection approximately 5 seconds after the crash.	The motorcycle is travelling at least 116kph when it entered the intersection and crashed into the side of Ms Y's car.

22. The footage from Camera 3 provides the best view of the vehicles travelling along Edgeware Road (although the angle of view becomes blurred as the vehicles travel away from the camera.) Our assessment of the footage is:

- There is a red traffic light (at the intersection with Barbadoes Street) visible in the footage.
- The motorcycle comes into view, followed 2 seconds later by the Police car with its flashing lights activated.
- Both vehicles are travelling at speed.
- The Police car passes Champion Street with its flashing lights activated.
- The Police car has its flashing lights activated for around 5 more seconds.
- In less than a second, the Police car's flashing lights are deactivated, the headlights of a vehicle are seen entering the Barbadoes Street/Edgeware Road intersection, and there is a flash of light (in his Police interview, Officer A described seeing dust and smoke in the air after the crash).
- About 2 seconds later, the Police car's brake lights illuminate.
- 5 seconds later, the traffic light turns green.
- In total, the Police car's flashing lights were activated for 12-14 seconds.

### What do we conclude?

#### *Did Police comply with Urgent Duty Driving policy?*

23. A Police officer can undertake 'urgent duty driving', meaning they may not comply with certain traffic rules and regulations, in certain circumstances. These include (but are not limited to):

- responding to a serious incident;
- gathering evidence of an alleged offence;
- apprehending an offender for an alleged traffic or criminal offence; and
- responding to a fleeing driver event in accordance with the Fleeing Driver policy.

24. The overarching principle is that public and Police employee safety takes precedence over the necessity to undertake urgent duty driving. Urgent duty driving must be justifiable in response to the threat, conducted in the safest possible manner, at a speed and in a manner appropriate to the circumstances.

25. Policy also states: *"Police must use red and blue flashing lights and siren at all times (continuously) while undertaking urgent duty driving unless a tactical approach is used."* A

tactical approach, as described in paragraph 10, involves intentionally refraining from activating flashing lights and sirens to enable Police to get closer to an offender or incident without alerting anyone of their presence.

26. The decision not to activate a Police car's flashing lights and siren increases the risk to members of the public and Police, and must be balanced against the seriousness of the incident. Specifically, policy states that: *"a tactical approach, without lights or sirens whilst exceeding the speed limit or exceeding the speed of the natural flow of traffic, can only be used in justifiable circumstances."*
27. While Officers A and B were trying to catch up to Mr Z they did not have their Police car's flashing lights and siren activated. Officer A said in his Police interview that: *"I was travelling at about 80 kilometres an hour at my fastest point. It was a tactical approach."*
28. However, the Police serious crash investigator estimated that the Police car was travelling between 87 and 112kph (well in excess of the 50kph posted speed limit) as it passed by Camera 1 on Shirley Road.
29. We accept that it was necessary for the officers to travel in excess of the posted speed limit to catch up to Mr Z in order to try to detect the motorcycle's speed using the speed radar, or read the licence plate so that they could make further enquiries. The speed that the officers reached in attempting to do so is at the outer limit of what we consider reasonable. However, we accept that it was late at night, there was little traffic and few pedestrians around, and the roads were dry.
30. We do not accept the tactical approach the officers adopted was justified by the circumstances. It was dark, and lights and sirens should have been activated to warn any motorists or pedestrians of an oncoming Police car travelling at speed, as well as drawing attention to the hazard created by the speeding motorcycle.

#### *Did Police comply with Fleeing Driver policy?*

31. When interviewed by Police, Officers A and B outlined a similar sequence of events:
  - they followed the motorcycle into Edgware Road where they activated their flashing lights and siren;
  - Mr Z looked behind, accelerated and both officers concluded that he was fleeing;
  - Officer A deactivated the flashing lights and siren at about the intersection with Champion Street; and
  - the Police car slowed.
32. Officer A was legally justified in signalling Mr Z to stop in accordance with section 114 of the Land Transport Act 1998.

33. Officer A says he deactivated the flashing lights and siren within 3-4 seconds (around Champion Street).
34. The CCTV footage is largely consistent with the officers' accounts until the vehicles reached Edgeware Road. However, from this point there are inconsistencies.
35. The footage from Camera 3 shows that the Police car's flashing lights were activated for 12-14 seconds, not the 3-4 seconds estimated by Officer A. The footage also shows the Police car passing the Champion Street intersection and continuing with its flashing lights activated for a further 5 seconds.
36. The Police serious crash investigator estimated that the Police car was travelling between 97 and 110kph as it passed by a Camera 4 at a residential property on Edgeware Road. Using a 'speed, time, distance calculator', the additional 5 seconds places the Police car 135–150 metres further along Edgeware Road (at or just past the intersection with Geraldine Street) when the flashing lights were deactivated.
37. When we put this contradiction to Officer A, he told us "... so obviously around Champion, a bit after, I didn't say it was before but that I thought it was around ...". Officer B indicated they must have turned the lights and siren off somewhere near Geraldine Street.
38. Although the officers were clearly mistaken when they told Police they deactivated their flashing lights and siren around Champion Street, on balance, we are satisfied that the officers were not being deliberately untruthful.
39. The Police Fleeing Driver policy is intended to guide decision-making when officers signal a driver or rider to stop, and in the event they do not do so, or they fail to remain stopped. Officers must perform a continuous risk assessment where they balance the:
- *"Threat and the potential exposure posed by the vehicle occupants(s);*
  - *Necessity to immediately apprehend the driver [or rider] and/or passengers(s); and*
  - *The ongoing risk of harm to any person, property, or public interest if the occupants are not apprehended."*
40. The policy prescribes that the safety of the public, the fleeing vehicle's occupants and Police staff takes priority over the immediate apprehension of the fleeing driver or rider. The officer *"should decide whether a pursuit is justified prior to signalling the driver to stop."* A pursuit is only justified if one of the following justifications are met:
1. *"Based on the threat posed by the driver/occupant(s) as determined by an officer's perceived cumulative assessment of the situation and subject behaviour, or*
  2. *Based on the seriousness of an offence suspected to have been committed by the driver/occupants(s), and the risk of that driver/occupant(s) committing ongoing offending, harm, or victimisation."*

41. Officers A and B say they wanted to stop Mr Z so they could talk to him about his speed. Both say there were no grounds to pursue Mr Z if he failed to stop for them. We agree with this assessment, as the risk created by Mr Z's speeding, to himself and to other road users, would only be exacerbated by engaging him in a pursuit. There was no reason to think Mr Z (who the officers had not identified) had committed any serious offence or posed a threat, beyond his manner of driving, to the general community.
42. The officers say they did not intend to pursue, nor did they initiate a pursuit with Mr Z. Officer A told us: *"There's obviously the human factor in there that I need the time to turn the lights and sirens off."* He further says: *"a Police vehicle does not stop on a dime."* While we accept that, the Fleeing Driver policy states that officers should make their decision as to whether they will pursue or not before they signal the driver or motorcycle rider to stop.
43. Consequently, we would have considered it reasonable for Officer A to have determined Mr Z was fleeing from them, to have slowed the patrol car and deactivated the lights and siren around the Champion Street intersection. The CCTV shows that this did not happen. Rather, the officers continued to chase Mr Z at speed toward a red traffic light (at the intersection with Barbadoes Street).
44. On the definition of a pursuit that the Authority is applying (which has now been agreed with by Police)<sup>6</sup> our conclusion is that the officers pursued Mr Z after activating lights and sirens on Edgware Road. This was contrary to the Police Fleeing Driver policy, and, in our assessment, unjustified. This constitutes a breach of the Police Code of Conduct.
45. While we have found the officers unjustifiably pursued Mr Z on Edgware Road, we cannot conclude that the officers' actions caused Mr Z's crash. It is possible that, had the officers not signalled him to stop, he would not have accelerated along Edgware Road. However, our view is that the officers were justified in signalling him to stop, as Mr Z was speeding, and we agree there were no indications that he intended to flee.
46. Mr Z made the decision to flee at speed seconds after seeing the officers signal him to stop, at a point where the red traffic light was clearly visible at the Barbadoes Street intersection. He had ample time to stop short of the intersection, knowing that traffic could be travelling through and into his path.
47. Police were behind him with lights and siren activated for approximately 12-14 seconds, a relatively short time. This may have encouraged Mr Z to keep going and ultimately make a tragic decision. However, we are satisfied that Police did not put Mr Z in an invidious position where he had no other options available to him but to flee.

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<sup>6</sup> A pursuit occurs when:

- a driver indicates by their actions and/ or by continuing their manner of driving that they have no intention of stopping following a direction to do so; and
- the enforcement officer decides to continue to follow behind the vehicle with a view to reporting on its progress or stopping it.



48. The Police Critical Incident investigation concluded that: *“the actions of Officers A and B shows no evidence of negligence or improper conduct. They simply tried to stop a vehicle, the vehicle has fled from them, they have not initiated a pursuit and the vehicle crashed.”* We do not agree.

## FINDINGS

Officer A was legally justified in signalling for Mr Z to stop.

Officers A and B were not justified in using a ‘tactical approach’ to catch up to Mr Z and should have had the patrol car’s lights and siren activated.

Officers A and B pursued Mr Z and breached policy by doing so.

Officer A’s and Officer B’s actions did not cause the crash.

## Recommendations

49. We recommend that Police amend the ‘Fleeing driver’ policy to include:
- 1) When motorcyclists flee, they often do so at high speeds and exhibit high risk riding behaviour which gives rise to increased risks for all involved. Accordingly, the decision to pursue a motorcyclist should only be made in the most extreme circumstances, and only after carefully weighing up, in accordance with TENR:<sup>7</sup>
    - a) The seriousness of any alleged offending;
    - b) The risks already posed by the motorcyclist; and
    - c) The additional risks that a pursuit may give rise to.
  - 2) If a motorcyclist flees when signalled and the officer initiates a pursuit, they must notify the ECC that they have initiated a pursuit with a motorcycle.

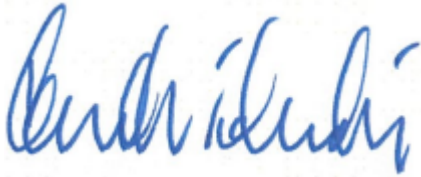
## Subsequent Police Action

50. Section 31 of the Independent Police Conduct Authority Act 1988 provides that the Authority shall not make any comment that is adverse to any person unless that person has been given a reasonable opportunity to be heard. Copies of our draft report were provided to the Commissioner of Police and the involved officers who were invited to make submissions in response to the findings in the draft report.

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<sup>7</sup> The Police threat assessment methodology ‘TENR’ (Threat Exposure Necessity Response) is a decision making process that supports the timely and accurate assessment of information directly relevant to the safety of Police and others.

51. We acknowledge the submissions received from Officers A and B and have made some changes to our analysis to reflect information they have provided.
52. We also note that the Commissioner of Police has acknowledged and accepted the Authority's findings.



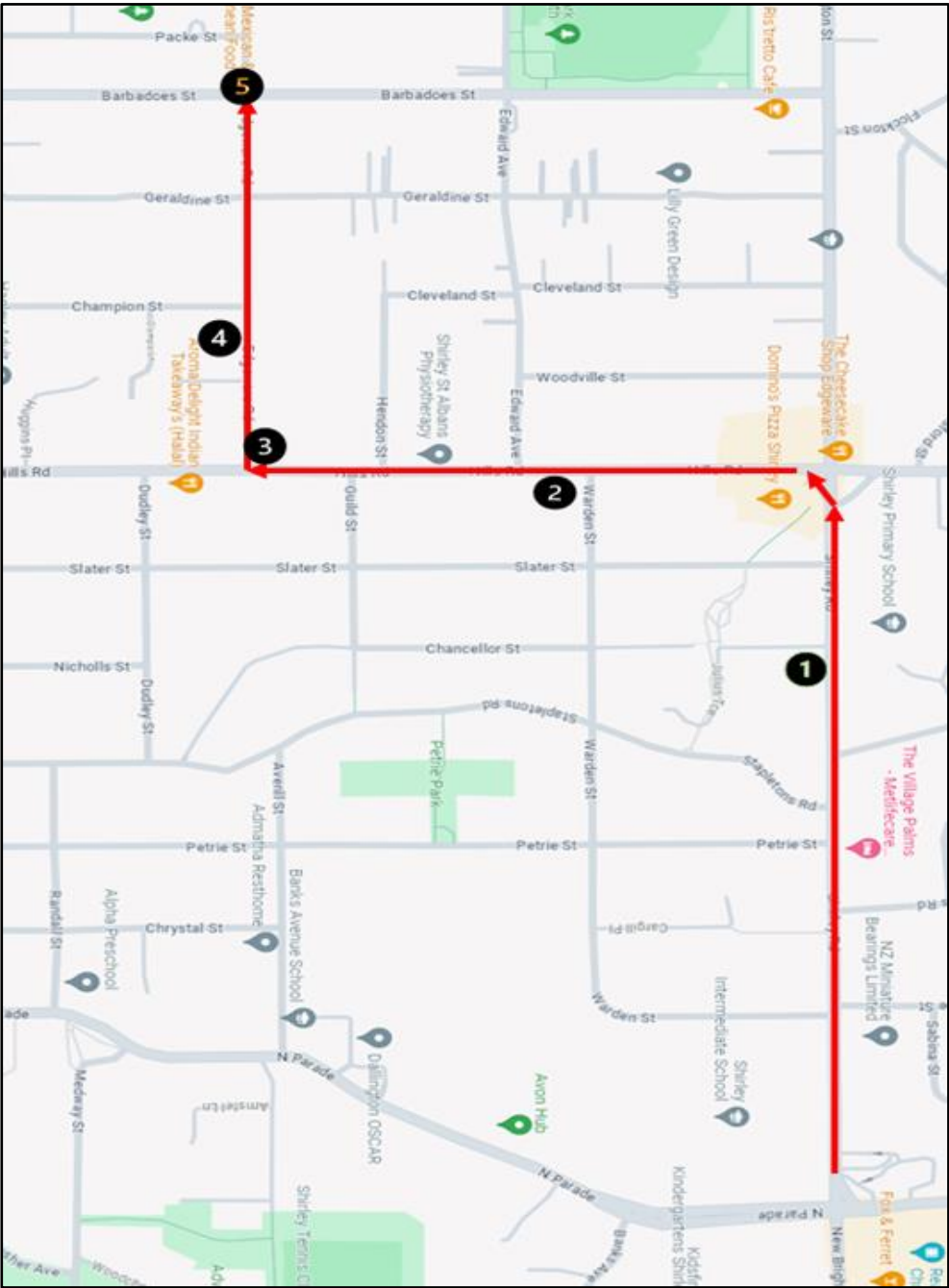
**Judge Kenneth Johnston KC**

Chair  
Independent Police Conduct Authority

12 December 2024

**IPCA: 23-19275**

# Appendix A – Route of Pursuit/camera locations



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## About the Authority

### WHO IS THE INDEPENDENT POLICE CONDUCT AUTHORITY?

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

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 Kenneth Johnston KC.

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?

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

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

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

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

### THIS REPORT

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

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Mana Whanonga Pirihimana Motuhake

PO Box 25221, Wellington 6140

Freephone 0800 503 728

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

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