

18 May 2018

By email to: [REDACTED]

Dear [REDACTED]

OFFICIAL INFORMATION ACT REQUEST

We refer to your 8 May 2018 email to the Information Request Coordinator from our Southern District, in which you re-request under the Official Information Act 1982 (OIA) “the full police file, and the video” associated with the deployment of a TASER against a feral goat in Oamaru during late 2016.

The requested Police file contains a 23-page investigation report authored for the District Police Professional Conduct Manager, as well as an 18-page Policy, Practice and Procedure (PPP) review report authored for senior management. The investigation report, in particular, formed the basis for employment processes under Police’s *Code of Conduct*, and scrutiny by the Independent Police Conduct Authority (IPCA); and both documents address the actions of several named staff members, as well as individuals who do not work for New Zealand Police. In light of this, significant portions of both documents would need to be deleted before they could appropriately be released under the OIA.

Rather than needing to offer up such heavily-redacted documents, summary-level information is being provided in satisfaction of your request. This step has been taken pursuant to section 16(1)(e) of the OIA, which permits an agency to make available information contained in documents by way of an excerpt or summary.

Excerpted material is provided from the PPP review, and a copy of a letter from the IPCA is offered by way of an overall summary. The PPP report information summarises relevant factual aspects of the investigation into the actions by the Oamaru officer involved in the December 2016 incident; while the IPCA letter serves to summarise the episode as a whole. Please note, in order to protect the privacy interests of named individuals, a small number of redactions have been made from the IPCA correspondence, as allowed for by section 9(2)(a) of the OIA.

For completeness, we are also providing a copy of the email received on 7 May from the Ministry for Primary Industries, confirming no enforcement action will be taken by the Ministry against the Oamaru officer. Given his identity is already in the public domain, we have not sought to redact the officer’s name; but again, as anticipated by section 9(2)(a) of the OIA, we have deleted identifying details of the sender and recipient of the Ministry’s email.

Police National Headquarters

180 Molesworth Street. PO Box 3017, Wellington 6140, New Zealand
Telephone: 04 474 9499. Fax: 04 498 7400. www.police.govt.nz

The second element of your request seeks the TASER camera footage from the December 2016 incident. We would like to offer you the opportunity to view the 4 minute video on Police premises, at a time convenient to you, as provided for under section 16(1)(c) of the OIA. In addition, arrangements are being made for an excerpt of the video footage to be couriered to you next week, for you to retain.

Weighing duty of care considerations, our judgment is that it is appropriate to withhold the remainder of the video, parts of which contain distressing content. Given concerns about the potential impact viewing all of the footage may have, we believe section 9(2)(c) of the OIA provides a basis for legitimately withholding release of the full 4 minute video; to the extent that we feel it necessary to “avoid prejudice to measures protecting the health or safety of members of the public”.

In forming this view, we have consulted with the Chief Censor. As a result of this consultation, we take confidence that there is a sound basis on which to withhold release of the full TASER camera footage, pursuant to section 9(2)(c) of the OIA.

In deciding against releasing the full video, we sought to identify any compelling public interest that would support making it more widely available. Our judgment is that there is no such public interest. That said, we trust the summary information we have been able to provide meets your needs. However, if you are dissatisfied, you are able to complain to the Office of the Ombudsman, and seek an investigation and review of the way that we have responded to your request.

Finally, please note that, consistent with State Services Commission guidance on proactive release of OIA responses which carry a degree of public interest [<http://www.ssc.govt.nz/sites/all/files/oia-proactive-release-dec2017.pdf>], we intend to publish this letter (with your personal details removed) on Police’s website.

Respectfully

~~XXXXXXXXXX~~

Mike Webb
General Manager
Professionalism and Assurance

Policy, Practice & Procedure Review

Taser Event

Oamaru, 1 December 2016

14 July 2017

8 REVIEW FINDINGS

This policy, practice and procedure review undertaken within the parameters of a Review Plan agreed to by Assistant Commissioner Sam Hoyle and the District Commander Superintendent Paul Basham has established 7 findings:

1. This event involved:

- a feral goat at large creating significant safety risks to motorists and pedestrians
- Police attending the event at the request of the local animal control officer who did not have the capacity or capability to effectively manage the situation
- an exceptionally rare if not unprecedented situation requiring Police to undertake highly improvised measures in efforts to manage a distressed goat (with horns) in a confined space within a garage
- Police being obliged to take action and manage factors well outside the parameters of knowledge, experience, training and tactical options
- a likelihood of criticism, complaint and potential reputational damage regardless of best endeavours
- a request by the animal control officer that Police use a firearm to destroy the distressed goat inside a garage
- Police identifying that use of a firearm would generate safety risks; preferring to undertake efforts to preserve the life of the animal.
- Police use of TASER in efforts to incapacitate and then tie up the goat.
- the animal control officer subsequently indicating:
 - no means available to then contain, transport or keep the goat
 - the prolonged and ongoing distress of the goat (evident when first located in the garage) necessitating that it be euthanized by a vet. (Page 6)

2. Police investigations undertaken involved the interview of 7 witnesses and subject matter experts and established that:
 - justification existed to destroy the goat
 - Senior Constable Pedersen acted in good faith and his actions did not constitute a breach of the Police Code of Conduct
 - Sound aspects of decision making included:
 - electing not to use a firearm because of safety concerns
 - considering options that would have averted taking the life of the animal despite its already prolonged exposure to distress
 - identifying safety risks arising if more than one person were to enter the confined space
 - recognising the limited realistic options available to one person contending with a distressed goat with horns potentially capable of inflicting serious injury (Page 7)
3. Police responders are periodically requested by other agencies or community members to resolve challenging and at times unusual circumstances that:
 - by virtue of the Police Oath of Office and obligations to keep the peace means that 'doing nothing' is not an option available, and therefore require Police to act
 - may require difficult decisions to be taken, that albeit are made in good faith and with the best of intentions; may result in unforeseen, unintended and unfortunate outcomes
 - carry potential exposure to public complaint, investigation, adverse comment, potential reputational damage
 - in some rare and unlikely instances carry exposure to potential prosecution (Page 7)
4. The outcome to Ministry of Primary Industries (MPI) initiated an investigation of this event is not known (as at 14 July 2017) (Page 8)
5. The police member responding to this event had full current tactical training certifications. (Page 8)
6. The operational policies and procedures relevant to conventional critical incidents involving consideration and potential use of firearms and other tactical options are of limited direct relevance or usefulness in the management of any incident involving a feral goat. (Page 9)
7. Taser has never been intended or ever envisaged to include use of the device to subdue animals or wildlife as a means to enable capture. This explains the ongoing absence of policy guidelines or training relevant to the circumstances of this event.

Tasers can however be utilised as a means to 'deter attacking animals'. (Page 11)

8. The fundamental principles of TENR were applied in terms of tactical decisions by the responder seeking to manage and mitigate safety risks to an event involving factors well outside the parameters of police policy, practice, procedure, knowledge, experience, training and tactical options. (Page 14)

9 REVIEW RECOMMENDATIONS

This PPP review recommends that the Operations Advisory Committee:

1. **Directs** that issues and opportunities identified in the debriefs and PPP Review of this event provide a basis to:
 - further develop and implement strategic initiatives that consolidate and enhance operational planning, command and control best practice
 - relevant business owners identifying, documenting and acting on lessons learnt
 - reporting lessons learnt to the Continuous Improvement Team for inclusion in the Lessons Learnt Database.
2. **Notes** that input provided by relevant business owners and subject matter experts has identified the following to be the agreed 'lessons learnt' arising from this event and to be entered into the LL database:

Lessons identified

1. The current TASER policy could be construed as ambiguous in that it does not specifically exclude the use of TASER on animals (other than to deter attacking animals) and should be amended to leave no ambiguity. (E.g. "Under no circumstances—other than to deter attacking animals—may a TASER be used on animals.")

The policy should also be amended in its language to use consistent terminology that makes it clear where it refers to humans by using "people" or "person/s" rather than "subject/s".

2. The current Animal policy focuses primarily on dealing with animals on roads; it does not cover this particular situation. (The Impounding Act 1955 mentioned in the Animal policy does not cover this particular situation. Goats are considered as "stock" in relation to the section 42 (authority to destroy stock), and section 33 (authority to impound) doesn't apply because it was the inability to impound the animal that gave rise to events in the first place).

3. Animal control officers are the best qualified people to deal with animals. When an animal control officer is present, police should defer to the knowledge of the animal specialists and allow them to deal with the animals.

IPCA: 16-1550/js
Category 2
NZP: 170207/5012

24 January 2018

The Commissioner
Police National Headquarters
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Dear Commissioner

Senior Constable Carl PEDERSEN – Southern District – MOU

Thank you for your letter of 23 November 2017 and the Police file.

The Authority has completed its independent review of the Police investigation. I now advise the outcome of the review.

The Authority has considered the Police investigation report and file and notes that you have concluded that the matter should be recorded as a policy/procedure breach on the part of Senior Constable PEDERSEN in terms of his failure to call for back-up assistance or form a plan for the process of restraint with another officer as discussed in the Taser training material. His actions, however, were deemed to be in good faith and not in breach of the Code of Conduct.

The investigation report from [REDACTED] and the Policy, Practice and Procedure Review report from [REDACTED] both recommended updates to Taser policy, training, and the system through which Tactical Options Reports for animals are submitted, and also a reminder to Police staff about their obligations under legislation relating to Police dealing with animals and the liability or risk to them and the organisation should there be a breach.

The Authority has received confirmation that the Taser policy has been updated and an update to training requested. Please ensure that the other recommendations have been considered and acted upon where possible. Given the issues identified, the Authority is of the view that the matter should also be recorded as a 'policy/procedure failure' on the part of Police which has been addressed through 'revised policy/procedure'.

The Authority is satisfied that Police have investigated this matter appropriately and reached reasonable conclusions, however I note that the criminal investigation being conducted by the

Ministry of Primary Industries (MPI) has not yet been concluded. The Authority may review the matter again based on the outcome of this.

My file is now closed. I return your file.

Yours sincerely



Manager: Case Resolution
INDEPENDENT POLICE CONDUCT AUTHORITY

From: [REDACTED] [mailto:[REDACTED]@mpi.govt.nz]
Sent: Monday, 7 May 2018 10:32 a.m.
To: [REDACTED] <[REDACTED]@police.govt.nz>
Subject: Goat tasered by Senior Constable Pedersen in Oamaru

Good morning [REDACTED]

Following investigation of this incident and taking all factors into account MPI has determined that no prosecution will be commenced against Senior Constable Pedersen in relation to breaches of the Animal Welfare Act 1999.

I have communicated this decision to Mr Pedersen and his counsel, Mr Farrow, per email.

I thank you for your assistance in this matter.

Yours faithfully,

[REDACTED]
Acting Manager / Compliance Support Unit / Investigation Group
Compliance Services / Operations Branch / Ministry for Primary Industries
40 Bouverie Street, Petone 5012 / PO Box 38090 Petone 5045 | New Zealand
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Ministry for Primary Industries
Manatū Ahu Matua

