

6 September 2023

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Tēnā koe S.I

Request for information

Thank you for your Official Information Act 1982 (OIA) request of 9 August 2023 in which you asked for:

1. a copy of the document titled 'Lessons Learnt: Shooting at moving vehicles' and;
2. a detailed list of all available 'Lessons Learnt' documents

In 2018 the Lessons Learnt team published the attached document relating to shooting at moving vehicles. Please note that some information has been withheld under section 9(2)(g)(i) of the OIA, to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any public service agency or organisation in the course of their duty.

In 2021 a revised publication - also attached - was released reiterating the risks and key safety messaging to staff.

Furthermore, please find attached a consolidated list of Lessons Learnt internal publications for the period May 2015 to August 2023. Please note that one title has been withheld under section 6(c) of the OIA, as the making available of the information would be likely to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial.

I trust the information provided addresses your areas of interest, however you have the right to ask the Ombudsman to review my decision if you are not satisfied with the response to your request. Information about how to make a complaint is available at: www.ombudsman.parliament.nz

Nāku noa, nā



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Appendix - Lessons Learnt internal publications, May 2015 to August 2023

Lessons Learnt Publication Title
3D printed firearms
Accidental Disclosure of Witness Information
<i>Title withheld – section 6(c)</i>
Aluminium long handcuff key risk
Another homemade pipe gun
AOS involvement in searches
Avoiding blue-on-blue fire
Care with inserting chamber flags
Chemical suicide - UPDATE, Electric/hybrid vehicles involved in crashes, Values in action (x4)
Chemical suicides - update
Children, young people and 6Y occurrences
Complacency and situational awareness
Complaint of excess use of force and unlawful search
Coordination with AOS
Credit Card Knives and attempted entry to our Courts
Crossband radio
Custodial suicide risk identified
Custody - risks and good practice
Damaged ammunition
Damaged rounds
Dangers to Police at Chemical Suicide Events, Taser Taser Taser, and Victim Focus in Action
DaS and SAM important information
Death in Custody, (Heavy Snoring Warning)
Disclosure of personal details
Dogs
Drug Search and Seizure forms
Electrical shock risk
Electrical tester pen
Enforcing temporary speed limits
Engaging with children and young people
Evacuating Police premises
EVs and vehicles with start,stop
Explosive risks
Extreme risks associated with chemical suicides
Family harm-Coding it correctly
Fatigue can be fatal
Fentanyl Advice
Fentanyl exposure risk to staff
Firearm complacency and Suspicious items update
Firearms seizures - data quality
Firearms seizures - data quality update
Flood risks
Glock safe - M4 trigger risk
Glock safe - M4 trigger risk
GunSafe
Handcuffing in front - DONT
Home detention breach is not unlawfully at large
Homemade firearm - modified paintball gun

Homemade firearm seized
Hot Debrief tool updated to allow drafts, call for LL ideas
Human Source Confidentiality
ID holder knife, Damaged ammunition
Importance of Debriefing
Importance of thorough search when clearing an address
Inadequate Service/Failure to Investigate and Cunning Concealment Countered
Investigative Interviewing for Identification
It shouldn't happen...
Key knife and searching detainees
Lifecard folding pistol
Limited powers to deal with mental health inpatients
Lithium battery disposal
Long hair - officer safety
M4 training ammunition risk identified
Maglite torch shotgun
Mandatory reporting of empty-hand tactics in TOR
Medical care vs custodial risks
Miniature cell phone
Misunderstanding and misuse of TASER contact stuns
Modified torch firearm
Money Laundering/Asset Recovery Unit advice, Taser "show", De-escalating a situation by preventing it from becoming a "situation"!, Failure to search following a pursuit, Dangers of fatigue, The full weight of the law
Nex of kin emergency contacts
No such thing as road speed
No such thing as routine
NOT aggravated robbery
Operation order templates
Photo setting for iPhones
Photographing people
PNT, S8 Search and Surveillance Act, Inventory seized vehicles
Police parking at crash scenes
Police Property and Exhibit handling
Post-fire safety at arson (and other fire) scenes
Pre Deployment Checks
Preventing unwarranted criticism by ensuring clarity of language
Prisoner search (and pre-deployment check) complacency
Proximity awareness – push-button start systems
Query Location (QL) Awareness
Radio discipline
Radio discipline—Situational awareness
Redaction/Disclosure Error
Reintegration
Responding to "hate crimes"
Responding to Head Injuries
Retention and Control of Tactical Options and Avoiding Friendly Fire Situations
Right to refuse medical treatment
Risk associated with attaching additional items to BAS
Safe TDD deployment
Safety at Fire Cordons
Safety when deploying TDD
Safety when deploying TDD

Safety when deploying tyre deflation devices (TDD)
Section 118 and Fleeing Drivers, Disclosure and the Privacy Act
Section 168A Criminal Procedure Act 2011
Seeking a Warrant to Arrest in lieu of 'Required to Arrest' alerts, or in lieu of summons
Shift log on and radio emergency button
Shift log on and radio emergency button
Shooting at moving vehicles
Situational awareness - radio eavesdropping
Skoda child locks
Skoda window opening and closing
Specialist skills login
Staff member assaulted when starting video interview
Strip searches
Submissions to Lessons Learnt
Successful Police use of social media
Sumps and bumps and DAS-SAM
Suspicious item
TASER carriage
Taser Holster Clips
TDD Safety
Teamwork around Threats, Risks and Safety
Tenancy Tribunal Orders, Trespass, Register of Births, Deaths and Marriages
TENR Tactical Communication - and inaccurate evidence
The dangers of complacency
The importance of the Dynamic Risk Assessment (DRA) questions in family harm investigations
Thorough search by authorised officer
To forbid or not to forbid (expired driver licence)
Tourniquet and training saves another life
Tyres and pre-deployment checks
Unconventional homemade firearm
Unit log-on log-off - a critical safety risk
Unlawful detention during search
Unsafe handling of explosives
Unsupervised dispensing of medication by prisoner
Use of force reporting
Vehicle security during disorder events
Water rescues
Water rescues part 2
What is Lessons Learnt
Whiteboard markers for roadside briefings
Wider availability of Lessons Learnt via KAI
Your stories make a difference
Youth Bill of Rights

LESSONS LEARNT

Shooting at moving vehicles



Shooting at moving vehicles

In a number of incidents in the past year or so, New Zealand police officers have fired shots at moving vehicles. In none of these incidents did the fired shots incapacitate either the vehicles or their drivers.

New Zealand Police's policy on shooting at moving vehicles is clear:

Shots may only be fired at moving vehicles in exceptional circumstances.

It is extremely difficult to disable a vehicle by discharging a firearm at tyres or other parts. The small target area and the margin for error impose a high probability of misdirection or ricochet increasing the risk of causing death, injury or damage.

Police can only use a firearms against a person to: 1) defend themselves or others from a threat of death or grievous bodily harm, 2) arrest an offender that reasonably poses a threat of death or grievous bodily harm, and the arrest cannot be effected in a less violent manner, and 3) that offender flees/ escapes to avoid arrest, or to prevent that offender escaping and the escape cannot be prevented in a less violent manner.

Police policy closely replicates the law. Before firing at a moving vehicle it must be first established that the offender driving that vehicle fits the criteria to use a police firearm.

For example, a person who has, or is suspected of having committed a homicide, is armed and is fleeing in a vehicle to avoid being arrested, could reasonably be considered to pose a threat of death or grievous bodily harm. A firearm may be used to arrest/prevent the escape of that person, so long as the arrest/escape prevention cannot be achieved in a less violent manner. Shooting at the vehicle to stop it to make the arrest or prevent the escape of that person could be an "exceptional circumstance".

However, shooting at a moving vehicle to stop it because the person driving it stole the car, if that person poses no reasonable threat of death or grievous bodily harm, is neither reasonable nor an exceptional circumstance—and is therefore both unlawful and contrary to policy.

It has long been recognised around the world that shooting at a moving vehicle is a highly ineffective method of stopping it.

In 1972, after the high-profile death of an innocent child, New York's NYPD imposed a ban (which is still in force) on its officers shooting at moving vehicles. Since then, other US police forces, including Boston, Chicago, Cincinnati, Denver, Philadelphia and Washington DC have followed suit. It is now one of the 30 *Guiding Principles on Use of Force* established by the **Police Executive Research Forum in the US**, that "Shooting at vehicles must be prohibited".

There may be some situations—such as the terrorist attack in Nice—in which the threat of death or GBH from the "weaponised vehicle" is greater than the significant threat of GBH or death (to innocent people) from an officer's shots. Even then, it is the driver of the vehicle that poses the threat and thus it is logical that any shots fired should be at the driver and not at the vehicle.

In such rare situations, the dangers of missed shots, bullets continuing after penetrating a vehicle, or ricochets, **might** be justified. Otherwise, it is widely accepted by experts and enforcement leaders that a ban on shooting at vehicles should be strictly enforced.



Ricochet dent in the roof of a Chrysler 300. Where might this bullet end up? (Photo by Officer Jesse Scott-Clarkesville Police Dept.)

In New York, officers may not shoot at a moving vehicle if the only physical threat is the vehicle itself; they may only shoot if occupants are firing a weapon at them. The view is that it is far more effective to get out of the way of a moving vehicle than to position yourself in its path and shoot at it. This is especially true, not only from the perspective of the ineffectiveness of disabling a vehicle by shooting at it, but also if a (lucky) shot incapacitates the driver, you then have to contend with an unguided missile weighing thousands of kilograms; not overlooking the fact that an incapacitated driver is just as likely to accelerate as to slow down.

In many (international) incidents in which officers have fired at moving vehicles, the view is that—regardless of whether their shooting was technically "lawful"—had they applied more robust threat assessment (like TENR) much earlier, they would have avoided the need to use force. The expression "lawful, but awful" has been used to describe such situations.

While a "defence of self or another" defence under section 48 of the Crimes Act will always exist, and might (very rarely) justify firing at a moving vehicle, your judgement and decision-making should always consider the reality that "lawful but awful" is not consistent with "Safer communities together", "Be safe, feel safe", or "What we do keeps people safe".



Each of the many rounds fired at this moving vehicle had the potential to either ricochet or penetrate and cause unintended harm to innocent people. None of the rounds incapacitated either the vehicle or the driver.

TENR—Necessity

s9(2)(g)(i)

This is particularly true when it comes to shooting at moving vehicles, where—upon reflection—it can nearly always be seen that there would have been better alternatives.

The decision to carry firearms

The decision to carry firearms cannot be made on the basis of a general perception of risk. Your perceived cumulative assessment (PCA) relates to your (reasonable) perception of a specific threat and a (reasonable and justifiable) belief that you are likely to face a situation involving death or GBH.

The availability of firearms, TASER and OC spray should never obscure the fact that the most effective tactical options available to you to keep yourself safe, are communication and judgement. Apply TENR (particularly “necessity”). Communicate effectively—with each other, as well as with offenders and, whenever possible, make decisions that will put time and distance between you and the likely need to use force.

Justifying shooting at moving vehicles

If you ever fire shots at moving vehicles, expect to have to justify your decisions in a number of objective and independent forums; that justification will have to counter not only the hindsight that will be available to reviewers, but also, the significant weight of international evidence and advice against the practice.

Lessons Learnt

🔄 UPDATED WEEKLY

Akoranga kua akohia

Shooting at moving vehicles

In 2018, we published an item relating to shooting at moving vehicles (Link here: [Shooting at moving vehicles](#).) It is timely to republish that article as it has become even more relevant in recent times with increased gang tensions and media speculation and sensationalism around police actions.

As our 2018 publication outlines, international and local evidence, international research, and policy in some major US states – as well as our own policy – make it clear that police should almost never consider shooting at moving vehicles. Not only do shots at vehicles seldom achieve a practical purpose, but also, the risks to innocent people are extreme—as highlighted in the article.

Situations in which terrorists use vehicles to run down and kill people might justify shooting. However, even then, unless the driver (the actual threat), can clearly be targeted for incapacitation, there is little point in just firing at a vehicle.

In any other situation, shooting at moving vehicles is difficult to justify and the risks are simply too great.

Please—keep yourselves safe; keep the public safe; don't shoot at moving vehicles.

Keep your colleagues safe; share your experiences.

Submit your debriefs and lessons [here](#) or on Checkpoint, (Search "debrief").