

**STEVEN JAMES WALLACE :
FATALLY WOUNDED AT WAITARA
SUNDAY 30 APRIL 2000**

REPORT

DETECTIVE INSPECTOR BR PEARCE

JUNE 2000

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23 June 2000

Superintendent MF Lammas
District Commander
Central District Headquarters
PALMERSTON NORTH

**STEVEN JAMES WALLACE, 23 YEARS : FATALLY WOUNDED AT WAITARA
SUNDAY, 30 APRIL 2000**

1 INTRODUCTION

- 1.1 At 1950 hours on Monday, 1 May 2000 I was telephoned at my home in Christchurch by Detective Superintendent MILLAR, the Acting Canterbury District Commander, and advised that Assistant Commissioner Paul FITZHARRIS had requested I travel to New Plymouth to take command of the homicide investigation commenced the previous day following the death of Mr WALLACE.

In the preceding 9 months I had been relieving Detective Superintendent MILLAR and in that capacity reported directly to Assistant Commissioner FITZHARRIS, Office of the Commissioner, Police National Headquarters, Wellington. The position which I relieved, while Christchurch based, is structured to provide operational support to districts nationally.

I understood that my role was to assume responsibility for the Criminal (Homicide) Investigation and that Detective Inspector BREW had been appointed to assist the Police Complaints Authority to specifically investigate and independently review the Police actions in dealing with the incident with a particular focus on Police policy practices and procedures.

I understood my appointment followed a decision to ensure the homicide investigation was commanded by an investigator who was entirely independent of the New Plymouth policing area. In that regard I record that, with the exception of two members whom I met while briefly stationed at Wellington in 1986, the entire New Plymouth area and sub-area staff were strangers to me prior to my commencing the investigation.

- 1.2 I immediately telephoned Assistant Commissioner FITZHARRIS who was at that time in Waitara and received a brief overview including the rationale for my appointment. I then spoke by telephone to Witness 12, [*Deleted] who, at that time, was heading the homicide investigation. We briefly discussed the future structure of the investigation and transitional command issues.

- 1.3 I travelled to New Plymouth by air the following morning arriving at 0850 hours and, following a briefing by Assistant Commissioner FITZHARRIS and Witness 12, assumed command of the investigation.
- 1.4 I have endeavoured to ensure that this report, for the purposes of most readers, can be read and assimilated as a stand alone document so that the key issues may be read and understood without direct reference to the main investigative file. To that end, a number of the significant witnesses' statements have in whole, or in part, been included as an integral component of the report.
- Note:** To maintain the integrity of each of those statements no attempt to edit any spelling or grammatical errors has been undertaken for report purposes.
- 1.5 In this report I will refer, from time to time, to a number of Police General Instructions (and particular extracts of the same) which bear directly on the core issues of my investigation. These General Instructions are attached as Appendix A. I will also refer to some prescribed policies, practices and procedures pertaining to dealing with armed offenders, and in this regard, will be referring to the Armed Offenders' segment of the Police Manual of Best Practice for Major Operations, now attached as Appendix B. Finally, there will be some reference to legislation dealing with the use of force and relevant sections of the Crimes Act 1961 are therefore attached as Appendix C.
- 1.6 I should also indicate a level of experience in both the investigation and command of homicide investigations. This year I will complete 25 years Police Service, 21 years of which have included homicide investigation as a Detective, Detective Sergeant, Detective Senior Sergeant and for the last 9½ years, as a Detective Inspector. As a Detective N.C.O. and Detective Inspector, I have commanded or supervised in excess of 25 homicide investigations ranging from relatively straight forward to complex.

During 1999, along with Detective Sergeant CLEMENT of Christchurch, I undertook an independent review of a fatal Police shooting in the Solomon Islands. As a consequence of that review, I initiated and undertook a homicide investigation in the Solomon Islands and ultimately recommended that a Royal Solomons Island Police officer be charged with Murder. That recommendation resulted ultimately in the officer being charged with Murder and pleading guilty to Manslaughter.

I also have extensive experience in the investigation of internal Police complaints and have undertaken, over recent years, some significant internal investigations on behalf of the Police Complaints Authority both within my own (Canterbury) Police District and others, including some in the North Island. In this regard, I have a good understanding of the role of the Police Complaints Authority as it relates to parallel investigations such as exists in this particular case.

2 INCIDENT SUMMARY

- 2.1 The Police shooting of Steven WALLACE followed the response by two on-duty New Plymouth Police Officers, one male and one female, together with a recalled to duty Waitara male Constable, to reports that a male person, later established to be Steven WALLACE, was smashing windows in Waitara township, including the Police and Fire Stations.

The three Constables hereafter will be referred to in the following way:

The recalled to duty Waitara Constable as 'Constable A', the New Plymouth male officer as 'Constable B' and the female officer as 'Constable C'.

- 2.2 At approximately 0345 hours on Sunday 30 April 2000, various residents of the Waitara community began reporting to Police by telephone a series of incidents involving the sound of windows being smashed. In some reports, a male person armed with an instrument or instruments was said to be responsible. This person, according to some informants, was associated with a motor vehicle and reports also included the erratic and dangerous manner which the vehicle was being driven, particularly in the vicinity of the town's business area.
- 2.3 The Waitara Police Station, following a reconstruction of events, appears to have been the first in a series of over ten buildings to be attacked by Steven WALLACE.

A neighbour of the WALLACE family home reports the sound of squealing car tyres and yelling around 0300-0340 hours on Sunday 30 April 2000. On looking out the window he saw a group of people, including members of Steven WALLACE's immediate family, standing together outside the family home.

The same witness reports that he went back to bed and about 15-20 minutes later heard a vehicle squeal back again. The relevant extract from the witness's statement records:

"About 15 or 20 minutes later I heard a vehicle squeal back up again. I stopped across the road.

I heard a bang like someone hitting something. Then I heard a male voice yell, "Did you hear that" or at least I think that's what he said.

Then he said, "You're nothing but a fucking cunt". Then the car drove off again."

It is believed that WALLACE was the driver of the vehicle and that he had attacked and smashed windows at the Waitara Police Station during the absence described by Witness 1. Witnesses describe WALLACE attacking the Waitara Police Station and smashing glass window panes to the front, side and rear of the building. In total, 55 panes were smashed at the Station, following which WALLACE left the area in his motor vehicle.

- 2.4 Early in the next sequence of events witnesses describe this vehicle, now established to have been driven by Steven WALLACE, being driven at speeds estimated in excess of 100 km/h in a 50 km/h area. Two witnesses record that WALLACE braked his vehicle violently to a halt outside the Fire Station and in the process caused the front left tyre to explode and deflate. WALLACE was then observed to alight from the vehicle and smash a total of 23 glass panes in the Fire Station building, before driving off on the deflated left front tyre.
- 2.5 The next building to be attacked by WALLACE was the Waitara New World Supermarket which sustained breakage to 26 glass window panes, following his attacks on it with a golf club or clubs.
- 2.6 Witnesses then describe WALLACE driving the vehicle on its deflated tyre on Queen Street in a dangerous manner involving his driving on the wrong side of a concrete traffic median as he turned right into McLean Street (the main street of Waitara township). A collision with another motorist was avoided only because of evasive action taken by that motorist.
- 2.7 WALLACE has then driven along McLean Street and to within a metre or two of the front door of the local chemist shop situated on the corner of Domett and McLean Streets, where he has alighted from the vehicle and continued to smash glass panes in surrounding buildings. While at this location WALLACE is reported to have attacked an occupied taxi with a baseball bat as it drove past slowly, smashing one of the taxi's windows.
- 2.8 WALLACE is also reported to have driven at high speed in a dangerous manner to within approximately 3 metres of a local [*Deleted] cycling in the township. The [*Deleted] believed the vehicle was intending to run him over and he immediately rode in a distressed state to the local petrol station to report the incident.
- 2.9 At 0346 hours, as a consequence of the Police Communications Centre receiving public advice of this activity, a Police patrol was despatched to Waitara from New Plymouth, a distance of approximately 14 kms. This patrol consisted of Constables B and C and their response followed Constable B being uplifted from foot patrol (beat duties) by Constable C who was mobile in the city. It is estimated that, once mobile, these officers would have taken 5-6 minutes to travel to Waitara. In the event, they arrived in the Waitara business centre at 0357 hours.
- 2.10 While waiting to be uplifted by Constable C, Constable B asked the Communications Centre to recall Constable A to duty from his own home situated close to the Waitara Police Station. Constable B, until three weeks earlier, had been stationed at the Waitara Police Station and was aware of Constable As' home being closely located to the Police Station. He believed that Constable A would be better positioned to respond in time to (potentially) identify the person attacking the Police station.

Constables B and C were in fact en route and half way between Bell Block and Waitara, ie about 5 kms from Waitara, when Constable A provided a cellphone sitrep via the Control Room to the effect that all the windows at the Police Station had been smashed.

- 2.11 On approaching the Waitara township (refer map, Appendix D), Constable B instructed Constable C to drive down the main street (McLean Street) to see if they could locate the offender. The Constables entered Waitara via Nelson Street with the patrol car's lights turned off and initially they observed no movement on the main street. When approaching the BP Station (Rosewarne Motors), Constable B observed a vehicle drive across McLean Street and park on the footpath, almost touching the glass doors of Peter Budden Chemist situated on the corner of Domett and McLean Streets.
- 2.12 Constable C slowed the Police vehicle and positioned it to the left of the road. At a point approximately 20 metres from the chemist shop, and while approaching slowly, the Constables observed the occupant of a grey car (WALLACE) walk around the back of his car and out into the middle of the left hand lane of the street. He is then described to have walked in a determined manner, and without hesitation, towards the Police vehicle holding something in his hand.
- 2.13 The Police patrol at this time had come to a halt slightly to the centre of the left hand lane in McLean Street. What then followed will be recorded in greater detail later in this report but, in summary, WALLACE raised a golf club in both hands and attacked and smashed the windscreen of the Police vehicle, directly in front of Constable C's face.
- Constable C then endeavoured to reverse away from WALLACE but he (WALLACE) managed to extract the head of the golf club from the broken windscreen in time to launch a second assault on the vehicle, smashing a side window.
- 2.14 Constable B then provided a sitrep by radio and requested that Constable A be advised to get a gun. Constable B records he considered how best to deal with this person and concluded that pepper spray was unlikely to be an option, believing he would not be able to get close enough to use the spray. Constable B considered WALLACE to be "out of control and somebody who would obviously attack anything or anybody". Constable B does not recall receiving a response to his radio transmission and Constable A appears not to have received the advice to uplift a gun because he was not in radio contact.
- 2.15 Constable B instructed Constable C to drive him to the Police Station about 80 metres distant. He then instructed Constable C to maintain observations on WALLACE while he went into the Police station to obtain a firearm. WALLACE at this time, could still be seen in the vicinity of the chemist shop from the position of the Police station.

- 2.16 Unable to access the Police station through the front door because of internal security measures, Constable B turned to run to the rear door of the station. As he did so he noticed Constable A pulling up across the road in his private vehicle after having completed his own short reconnaissance of the area, during which time he observed WALLACE smashing the chemist's windows and attack the Police vehicle.
- 2.17 Constable B gained access through the rear of the Police Station and into the secure area in which the station's firearms are stored, utilising his recent knowledge of the station's security codes and combinations. As he did so, he could hear Constable C making radio transmissions and updating WALLACE's positions.
- 2.18 Shortly after accessing the secure area, Constable A entered the Police station through the rear door and joined Constable B. The pair opened the firearms cabinet and each armed themselves with a Glock standard issue 9 mm pistol, a spare magazine of ammunition and standard issue holsters.
- 2.19 The two Constables briefly discussed the offender and 'what a nutcase he appeared to be'. They did not discuss any future plan or strategy to deal with WALLACE. Constable A said he thought the offender was a person he knew as Witness 2. As they left the secure area, Constable A returned to obtain a duty belt while Constable B obtained keys to a marked Police vehicle parked at the station. The duty belt obtained by Constable A included an OC spray canister. The Constable had his own PR24 (long) baton with him.
- 2.20 Constables A and B left the Waitara Police Station in the marked patrol vehicle. Constable B was driving. At this time it became apparent that Constable C had driven her patrol car about 70 metres up the road to the corner of McLean and Domett Street, ie back to the intersection on which the previously mentioned chemist shop is located. (Refer plan, Appendix E) It is relevant at this point to record that Constable A did not realise until after the shooting that Constable C had accompanied Constable B to Waitara. He believed that he and Constable B were alone.
- 2.21 Constable B drove his patrol vehicle around Constable C's vehicle, turned left off Domett Street and headed west on McLean Street. Constables A and B could see WALLACE's vehicle now parked just over the next intersection approximately 120 metres distant, ie the intersection of Grey and McLean Streets. The vehicle was parked on the correct, ie southern side of McLean Street and heading west.
- 2.22 As they proceeded towards WALLACE's vehicle, it became apparent that he was out of his car. Constable B approached and parked the patrol vehicle on the eastern (nearest) side of the Grey Street and McLean Street intersection at a point estimated as approximately 30 metres from the offender's vehicle (refer plan Appendix E).
- 2.23 Constables A and B got out of the car and walked into the middle of the intersection. Constable A went to the middle of the westbound (left) lane. At this point, WALLACE was beside his own car.

WALLACE then walked out to the middle of the westbound lane. Constables A and B could see that he was holding a steel shafted golf club in one hand and an aluminium baseball bat in the other hand.

As soon as he observed that WALLACE had these weapons, Constable B removed his handgun from its holster and trained it on the offender and said, "Armed Police, drop your weapons", or "Put down your weapons." He said this several times, the offender apparently completely ignored Constable B and did not acknowledge his existence.

2.24 Constable A, in contrast, kept his weapon holstered but records that the –

"...male offender immediately came towards Constable B. He was angry, very angry. He said something like, "You've fucked me around too much, too often" (words to that effect). He was yelling and swearing. He said a lot of things over and over again, repeating himself."

He was moving towards Constable B quickly who records-

"He had two objects in his hands. One in each hand. I can't say how he was holding them. I could see one was a baseball bat, a metal (aluminium) one and a golf club (an iron).

At the time he saw us there would have been a distance of about 20 metres between us. As he was advancing I kept a distance of at least 20 metres between us by taking backward steps."

Constable A mistakenly believed that this person was Witness 2 who is known to him. He called out his name and said, "Witness 2, what's going on, can we talk?"

2.25 Constable A then records:

"He advanced on me, I was retreating. He seems to focus on me. He then hurled a golf club at me. It spun towards me, I ducked down and it went past me. I am not sure where it ended up. The weapon was thrown with force. He continued to say things like he'd had enough, you're persecuting me.

I was still retreating."

Constable B was moving back as well. With the offender at one point they endeavoured to keep a triangle with equal distance between each other.

At the stage WALLACE threw the golf club, Constable A drew his pistol but he was not aware what Constable B did with his weapon. The offender was still armed with the baseball bat. He is said to have held it up in front of his body with both hands. The bat was over his shoulder similar to an axe grip. Constable A took this to be an aggressive posture.

Constable A told WALLACE he was armed and said, "Witness 2 I am armed."

This apparently didn't have any effect on him, he didn't back off. Constable A yelled out to him more than once that he was armed. At the time Constable A drew his firearm WALLACE was in the middle of the Grey Street intersection and Constable B, it appears, was still 20 metres from him down McLean Street.

Constable A then records:

"He was advancing towards me at a fast walk, taking big strides.

I cocked my weapon about the same time I told him I was armed. He would have seen me cock my weapon.

I continually called out to him, Witness 2 I am armed, can we talk, what's going on.

Witness 2 lives just down the road from me. We are on reasonable terms. I still believed it was Witness 2 who was approaching me. This is the reason I carried on talking to him. I thought I had a rapport with him. I had no reason to believe Witness 2 was a dangerous person and I had not found myself in conflict with him before. I was confident that if it was Witness 2 then I could talk to him."

Constable A reports that after WALLACE had thrown the golf club at him and he had pulled his weapon, WALLACE advanced quicker on him than what he had done. Constable A was retreating very quickly, taking backward steps.

At one stage WALLACE said to Constable A, holding the baseball bat up, if he got to him, he was going to do him harm (or words to that effect). Constable A believed WALLACE was intending to carry out this threat.

Constable A then fired one shot into the air, a warning shot. At this stage Constables A and B would have retreated over half of the block from their original position. The gap between them and the offender remained the same, about 20 metres.

The warning shot was directed up into the air.

When he heard the warning shot WALLACE kept on coming towards Constable A. He is said to have been advancing at a constant pace.

After the warning shot Constable A told WALLACE that he would shoot him if he came any closer.

Constable A has stated:

"Between the time that I got out of the car and he had begun advancing on me, and the time I fired the warning shot everything was happening very quickly and I am unsure how long this all took.

I fired the shot into the air , while continuing to go backwards. I had almost gone right back to the footpath on the opposite side of the road, near the sports shop. The offender at this stage was closer to me than he had been before and I would estimate that distance at 10 metres approx.

At this stage he was directly in front of me, with my back to the shops. Constable B was on my right hand side, about 20 metres further up McLean Street. At this stage I felt my exit was being closed. The offender was advancing more quickly and closing the gap significantly.

I genuinely feared for my life. He was continuing to say he was going to do something to me with the weapon that he was holding. He still held the baseball bat above his head in a threatening manner and his words were to the effect he intended me harm. He was continuing to advance towards me

I never stopped retreating. My pace of retreat was constant but the gap was getting smaller.

I then fired three shots. I shot instinctively at the offender. It was dark, there were just three shots in his general direction. They were three shots in rapid succession.

The offender fell to the ground slowly, he tried to get up and flopped back down on the ground, several times.....”

- 2.26 Constable B records that WALLACE did not acknowledge the warning shot. He continued screaming and threatening Constable A and he then increased his speed towards Constable A. He is said not to have broken into a run but his walk was more determined and he had the baseball bat raised up in the air ready to strike Constable A.

Constable B observed that following the firing of the warning shot WALLACE became more determined to get to Constable A saying, “You fucking asshole, I’m going to kill you”.

Constable B says as WALLACE was approaching Constable A he realised that he was not going to stop and that one of them was going to have to shoot him.

Constable A then fired four shots and WALLACE fell to the ground.

Constable B did not fire any shots.

Constable C immediately called for an ambulance.

About four minutes after the shooting NUS Sergeant PRESTIDGE, the I-Car Sergeant, arrived and requested that more staff be called out.

About 20 minutes after the shooting the ambulance arrived and ambulance staff began attending to the offender. He was taken to Taranaki Base Hospital and died in the operating theatre at approximately 0900 hours that morning.

- 2.27 Real time radio transmission audio tapes indicate that the elapsed time between Constables A and B leaving the Waitara Police Station until WALLACE was shot was approximately 74 seconds

Other than Constable B and Constable C, just two members of the public, a Witness 3 and Witness 4, were the only eye witnesses to the actual shooting.

- 2.28 It is appropriate to include at this point that there was no Police dog patrol on duty at the time. The on-call handler was telephoned and was in the process of releasing his dog from its kennel at the handler's residence when he was stood down immediately following the shooting. The handler estimates he would have taken approximately 10 minutes to travel from his home to Waitara given favourable road conditions.
- 2.29 Steven WALLACE was hit by four bullets. One of these caused the fatal wound to his liver. A wound which medical experts advise was not survivable.
- 2.30 The scene of the shooting was then cordoned off to members of the public and traffic and later examined in the context of a homicide scene examination.

3 **INVESTIGATION STRUCTURE AND METHODOLOGY**

- 3.1 Almost immediately, ie 3½ minutes after Steven WALLACE was shot, Constable B was requesting the attendance of the Criminal Investigation Branch and a full criminal investigation into the circumstances of the shooting commenced. On the death of Steven WALLACE later that morning the enquiry officially became a homicide investigation.
- 3.2 The investigation proceeded at all times in accordance with well established New Zealand Police homicide investigation structures and the appropriate phases were identified and resourced. Copies of the investigation's organisation charts exist on the main file.
- 3.3 As indicated, and for the reasons identified at Paragraph1.1, the command of the investigation changed early on Day 3, Tuesday 2 May 2000.
- 3.4 On average, 20 investigators and support staff were actively engaged on the investigation over 2½ weeks. Significant phases included witness interviews, scenes, exhibits, profiling and plans.
- 3.5 The investigation file has been recorded and indexed electronically.

4 **STEVEN JAMES WALLACE : PROFILE**

- 4.1 The following represents a general profile of the deceased:

FULL NAME:	WALLACE/Steven/James
DOB:	02 October 1976
ADDRESS:	[*Deleted] Broadway, Waitara (family home)
OCCUPATION:	Student Benefit (ex Architecture Student Victoria University, Wellington)

DESCRIPTION: Male Maori, 23 years old, 174cm (5'8") tall, medium/stocky build
 PRN: [*Deleted]
 PLACE OF BIRTH: New Plymouth

Family

Aged 23 years at the time of his death, Steven James WALLACE was the oldest child of Witness 5 and [*Deleted].

Steven had one younger sister, [*Deleted], who is [*Deleted] years old. [*Deleted] is the biological daughter of Witness 5 and [*Deleted], ie a full sister to Steven.

The WALLACE's lived together at [*Deleted] Broadway, Waitara.

Steven's father, [*Deleted], is [*Deleted] years old. His actual name is [*Deleted] [*Deleted] but he has always been known as [*Deleted].
 [*Deleted]
 [*Deleted]

[*Deleted]
 [*Deleted]

[*Deleted], is [*Deleted] years old.
 [*Deleted] Police

[*Deleted]

[*Deleted]

[*Deleted]

Education

Details of Steven WALLACE's early childhood schooling at Waitara have not been ascertained. It is known, however, that he was educated at his local High School, Waitara High between 1990 and 1994. Steven was a student there from Forms 3 to 7. He gained a C Bursary in 1994 in his 7th form year. Some of the witnesses confirm they attended primary and intermediate schools with Steven in Waitara.

In 1996 Steven went to Massey University, Palmerston North. He enrolled in a Maori Design Course but stayed for only half the year then pulled out of the Course and returned home. During this period Steven was involved in a relationship with [*Deleted] [*Deleted] and they initially attended Massey together. It appears difficulties between the two led to Steven's return. Attempts have been made to interview [*Deleted] [*Deleted] but she has resisted talking to Police about their relationship.

In 1997 Steven enrolled at Victoria University, his Major being Architectural Design. Of the nine Papers in which Steven enrolled, he obtained five pass Grades (ranging from C to B+), was declined access to one Paper, he cancelled one Paper and failed to complete Course requirements for the two others.

One of the papers in which Steven failed to meet requirements was his Major subject, Architectural Design.

In 1998 Steven re-enrolled at Victoria University in three papers, including Architectural Design once again. He withdrew however and cancelled his registration before attending any classes.

In 1999 Steven again re-enrolled at Victoria in three Papers. At the completion of the academic year he had obtained passes in two of the Papers but again failed to meet requirements in his Major Architectural Design Paper.

There is no record of Steven being enrolled for any Course in the 2000 academic year

Friends and Associates

Steven associated closely with his family, including his half-brothers and sisters, the [*Deleted]. His family appear to have immediately got behind him and been very vocal in their support, particularly when he has got into trouble with Police. On occasions, the blame has been put onto others for Steven's sometimes violent actions by his immediate family.

It appears Steven's friends or associates often revolved around sports teams he was involved with, which include rugby, rugby league and softball.

Little is known about Steven's female partners, other than the 1995-1996 relationship with [*Deleted]. [*Deleted] eventually decided to end the relationship which resulted in Steven becoming violent, driving his mother's car through an associate of [*Deleted] fence. Later [*Deleted] suffered verbal abuse from [*Deleted] and was blamed for causing Steven to 'lose it' on this occasion.

Other friends include [*Deleted] and [*Deleted]. [*Deleted], New Plymouth where Steven was a regular visitor. Steven was known to a number of the staff at this establishment.

Maori Culture

Steven WALLACE's heritage is Te Atiawa, local North Taranaki Iwi.

He is not believed to have been actively involved in any cultural group or organisation.

Social/Sporting

During his High School years Steven played rugby and softball. He was a member of the Waitara High School 1st 15 rugby side which toured Australia in 1994.

He has also been involved in playing rugby league for the Waitara Bears Rugby League Club and was a keen softballer.

Steven also played golf. However, it appears he is not a financial member of any golf club.

Family and friends' tributes to Steven suggest he was a gifted sportsman in a number of fields.

Drug/Drinking Consumption

Steven WALLACE drank alcohol and from public comments made by a member of his family was 'known to have a few'.

Reports from Police members serving in Waitara [*Deleted].

[*Deleted] and it is notable that much of his previous violent offending has been alcohol related.

Steven is known to have smoked Cannabis. He has a previous Conviction for the Cultivation of Cannabis.

The following summarises the recorded incidents involving Steven WALLACE and the Waitara or New Plymouth Police

Previous Police Contacts

27/04/95

The first confirmed reported incident involving Steven James WALLACE and the Police followed an event on 27 April 1995. WALLACE went to visit his girlfriend [*Deleted] at [*Deleted], Waitara at about 11.20pm in the evening.

[*Deleted] was in the process of breaking up with WALLACE and the couple were speaking on the doorstep of the address. [*Deleted] returned inside the address. WALLACE started to lose his temper, abused [*Deleted] and got into his car and drove it directly through the front fence at the property. He then left the scene.

The car he was driving belonged to [*Deleted]

who shortly afterwards turned up at [*Deleted] address. Police were called and [*Deleted] was heard to abuse people present, including [*Deleted] stating they were all to blame for [*Deleted] actions.

Steven WALLACE was located by Police the next day and spoken to. He admitted causing the damage to the fence because his girlfriend wouldn't listen to him and because he had been chased off the property.

When spoken to by Police that day he was described as cooperative and received Diversion on this Charge.

The Police Officers dealing with this incident were Constable Brett MATUKU and Constable Robert O'KEEFE (now Sergeant in Charge of Waitara Police Station). The arresting Officer was Constable Brent MATUKU.

05/11/95

The next recorded incident of note involving Police and Steven WALLACE followed an incident which occurred at Waitara on 5 November 1995.

Shortly after midnight on this date while at a 21st function at the Manukorihi Sports Club, WALLACE was involved in a fight with two other persons. A number of other people from the function intervened and tried to stop it, including a female person named [*Deleted] ([*Deleted]) who was punched by WALLACE.

WALLACE then left the scene with people chasing after him. He returned a short time later with a piece of wood similar to the size of a baseball bat.

WALLACE went about smashing windows on vehicles that were parked outside the function. As he did this to one of the vehicles he was confronted by the owner who happened to be sitting in the car at the time.

WALLACE struck the complainant across the back, knocking him to the ground. The complainant suffered extensive bruising and soreness from this incident.

WALLACE was then chased once more by a number of people from the function and left on foot.

Police carried out enquiries at the defendant's home address [*Deleted], Waitara and found WALLACE in an uncooperative and abusive mood. He told attending Police Officer, namely Constable BARRY, to 'fuck off'. He was asked if he was responsible for breaking the car windows at the sports ground and he admitted responsibility. He was noted to be very intoxicated.

WALLACE then walked out of the shed at the address where he was being spoken to by the Constable. He picked up a broom and shaped up to the Constable before once again putting it down and walking off.

He then picked up a shovel and again shaped up to the Constable who, along with another person at the address, was trying to calm WALLACE down.

WALLACE then took off over the fence at the address, ran off and was not located until later that night. He was arrested and charged the following day by Constable ROPER, of the Waitara Police, with damaging the vehicles and Assault with a Weapon on the complainant. He was convicted of these offences.

Police dealing with this incident were the arresting Constable ROPER, Constable BARRY who visited him on the night of the incident, Constable TELFORD who carried out enquiries and Constable A who took a Job Sheet from a witness. There is no information on the file to suggest that Constable A dealt with WALLACE personally at any time in relation to this matter.

14/05/96

WALLACE's record reveals that on this date he was charged with a Breach of Supervision. The Police file has not been located and it may have been destroyed. No information is known on who the Officers were who dealt with WALLACE on this occasion.

29/06/96

On this date WALLACE was driving a motor vehicle at 7.40 pm in the evening. He drove into Waitara and was followed by a marked Police car. A vehicle stop was attempted and a local Traffic Constable Straun ROBERTSON flashed his red and blue lights at WALLACE.

WALLACE did not pull over immediately and continued driving along Princess Street where Police managed to pull alongside him and ordered him to stop. He continued driving and ignored all attempts to stop him. He was followed 3.7kms to his home where he finally stopped.

WALLACE's explanation to Constable ROBERTSON was that "he couldn't be fucked stopping for him". He had been drinking and was processed through the Evidential Breath Test procedure and was found to contain 797 micrograms of alcohol per litre of breath.

He was subsequently convicted in the Palmerston North Court (because he was attending University in Palmerston North and pleaded guilty) for Failing to Stop and Excess Breath Alcohol.

31/10/96

On this date Steven WALLACE was stopped by Waitara Constable Keith BORRELL and charged with Driving Whilst Disqualified. WALLACE was described as being co-operative until it was discovered that he was a Disqualified Driver and then his attitude changed. No real difficulties were apparently experienced during the arrest procedure.

11/01/98

At about 3.45am on this date, after being in town drinking, Steven WALLACE became involved in an argument at the taxi stand in Brougham Street, New Plymouth. He challenged a member of the public to a fight but this was interrupted by Police who were nearby. With the Police arrival WALLACE walked away up the street but then continued challenging the other person to a fight in Police presence, before coming running back down the street and swinging a wild punch at that other member of the public. His punch missed and he was arrested by Police staff who were present.

WALLACE was unco-operative with Police and refused to acknowledge that he was being charged and under arrest for the incident, even when taken to the Police Station.

The Officers involved in dealing with WALLACE on this occasion were Sergeant Grant SAWTELL, Constables Dianne LIMBREY and Marie IRELAND, all of New Plymouth Police Station.

08/03/98

On this occasion WALLACE was in the carpark situated behind The Mill Nightclub, Powderham Street, New Plymouth. At approximately 3.30am, a Police patrol came upon an incident which involved WALLACE and another person who were fighting with each other.

A large number of people were gathered around. WALLACE continued fighting despite the Police presence and had to be forcibly separated from the other person who it appears, was also reluctant to desist. WALLACE was arrested and charged with Fighting in a Public Place.

Despite the attending Police suspecting that WALLACE was most likely the instigator no complaint was forthcoming from the other party. The Officers concerned in this incident were Sergeant Steve BARRETT, Constables Kim VOLMER and Belinda DEWER, all of the New Plymouth Station.

06/06/98

At 2.45am on this date WALLACE, after drinking in New Plymouth, became involved in a fight outside KFC on the one way system in New Plymouth. Attending Police described WALLACE upon their arrival as very 'amped up' and as he was being arrested told the Police that - "It was all a crock of shit and you 'cunts' don't know what you're doing". Later, when he had calmed down somewhat, WALLACE told Police he had been inadvertently attacked and that is how he became involved in the fight.

Police enquiries and witnesses at the scene clearly established that this was an agreed fight between WALLACE and another member of the public. He was arrested and convicted for Fighting in a Public Place. Officers dealing with this matter were Constable Wayne ROWLANDS and Ivan SMITH of the New Plymouth Police.

27/06/98

On this date Steven WALLACE was once again processed through Excess Breath Alcohol procedures. His breath returned a reading of 900 milligrams per litre of breath and he was subsequently convicted in July in the New Plymouth District Court for Driving with Excess Breath Alcohol. No physical record of this file has been found and staff details are unknown.

05/04/99

On this date Waitara Police staff executed a Search Warrant [*Deleted], Waitara. A mature cannabis plant was found growing in the rear garden which Steven WALLACE admitted cultivating. He was arrested and charged with the Cultivation of Cannabis and was convicted in the New Plymouth District Court.

A videotaped interview of WALLACE was conducted by the arresting officer, Constable Andrew ROSS of the Waitara Police. This tape, which has been viewed during this investigation, records WALLACE as being cooperative and fully admitting the offence. WALLACE was not intoxicated and did not appear under the influence of drugs during this interview or the earlier Police visit to his home. Constable ROSS has stated that WALLACE's [*Deleted] was particularly abusive towards Police during their visit and felt as though Police were picking on [*Deleted].

22/11/99

At 2205hrs on this date WALLACE was stopped by Constable Straun ROBERTSON, a Waitara TSB Constable, for exceeding 100km/h. The vehicle stop took place in Devon Road, Bell Block and WALLACE was handed a \$120.00 fine by means of an Infringement Notice. On this occasion he was driving the Nissan vehicle, YC3834, the same vehicle he was driving around the streets of Waitara just before his fatal shooting. There were no real difficulties experienced during this stop and this was the last recorded interaction between WALLACE and the Police.

In summary, there are no recorded incidents involving Steven WALLACE with either Constables A, B or C other than the 5 November 1995 incident where Constable A's involvement was to simply interview a witness.

5 **SCENES**

5.1 While each individual building or vehicle damaged by Steven WALLACE during his destructive rampage around Waitara in the early hours of 30 April 2000 represents a scene in its own right, for the purposes of this report, discussion will focus on the following scenes:

- Scene A:** Waitara Police Station
- Scene B:** New World Supermarket, Waitara
- Scene C:** Waitara Fire Station
- Scene D:** McLean Street, Waitara
- Scene E:** Vehicle YC3834, Nissan Presea

5.2 Waitara Police Station

The Waitara Police Station is of brick construction. Retail outlets are located on one side of the premises and across the road.

The remainder of the Police Station is surrounded by residential addresses.

Scene Information

55 glass panes on the front and side windows of the Police Station were smashed.

An unmarked Police patrol vehicle [*Deleted] parked in the rear yard of the Station had the front passenger side window smashed.

Examination

An examination of the environment surrounding the Police Station was conducted. This resulted in the location of exhibits associated with the damage at the Police Station.

Exhibits Located

A wooden sawhorse and pellet had been introduced to the scene. It appears that these were introduced from a section across the road.

Two golf tees, 10 golf balls, a bucket, four golf club shafts and three golf club heads were located in this scene.

5.3 New World Supermarket

The front aspect of the New World Supermarket faces onto Queen Street. This Supermarket is constructed of a fibrous cladding and there is a parking area at the side of the premises along Whitaker Street.

The front of these premises is made up principally of large glass windows.

This building is located in a retail area and there are no residential properties close by.

Scene Information

26 windows on the front of the premises were smashed.

The shop's glass break alarm was activated at 0357 hours on 30/04/00.

Examination

The broken glass resulting from the damage to these windows was principally cleared up by the owner of the premises prior to Police arrival.

No exhibits were located at this scene.

5.4 Waitara Fire Station

The front of the Fire Station faces onto Grey Street, Waitara. The Station has an exterior cladding of Colour Steel sheets.

The immediate Fire Station is surrounded by vacant land, although there are houses located on Stafford and Browne Streets which have an elevated view of the Fire Station.

Scene Information

A total of 23 windows were damaged at these premises. This damage consisted of 20 window panes in the main fire appliance bay doors, one pane in the glass front door to the premises and two window panes in the front office.

Examination

Two exhibits were located at these premises and consisted of 1 metal golf club shaft and 1 brass golf club putter head.

There were some notable skid marks located on Grey Street immediately outside these premises which are material to this investigation.

For the purposes of this investigation, Constable STABLES, a Crash Analysis Expert with the New Plymouth Police, conducted an examination of these skid marks in order to calculate the speed the vehicle was travelling at the time the braking occurred.

Skid tests were conducted at this time in order to make the calculation.

A detailed report has been prepared by Constable STABLES. His findings being that the vehicle which caused the skid marks was travelling at a minimum of 71.8 kph.

5.5 McLean Street, Waitara

Scene D encompassed McLean Street, Waitara from the Domett Street intersection through to midway between the Browne and Grey Street intersections.

This scene predominantly comprises commercial properties which were closed at the time of the offending by Steven WALLACE.

[*Deleted]

There is one further residential property in this area [*Deleted] occupied by Witness 10 and Witness 11.

Utilising an aerial photograph (Appendix F) the premises of significance in this area are identified. The named premises were all damaged.

Scene Guards were posted to ensure the integrity of this scene.

Scene Information

A total of eight shops within this scene area sustained damage to their windows or doors. The size of these windows and doors varied but in total 36 separate glass panes were damaged.

Separate incidents involving damage to two vehicles, a New Plymouth taxi and a Police patrol vehicle, occurred within this scene.

This scene within which Steven WALLACE was shot, is discussed in greater detail at Section 9 of this report.

5.6 **Nissan Presea, Reg. No. YC3834**

This vehicle is owned by the deceased, Steven WALLACE. An examination of the vehicle was conducted at the New Plymouth Police Station on 01 May 2000 by ESR Scientist, Mr Peter WILSON.

At the conclusion of this examination the vehicle was further examined by Constable STABLES, New Plymouth Crash Analysis Expert, for information associated to the Fire Station scene.

The front wheels of this vehicle were seized for forensic examination; replacement wheels obtained and the vehicle released to family.

6 **INITIAL POLICE REPONSE**

- 6.1 At 0346 hours on 30 April 2000 the New Plymouth Police received the first of a number of communications indicating that a male person was attacking the Waitara Police Station. The initial information received by the New Plymouth Police came via the Wellington Communications Centre.
- 6.2 At that time Constable B, who was rostered that evening to work in the New Plymouth Incident Car (I Car) with Constable C was out walking the beat, while Constable C undertook a 4L, ie staff transport. The call sign for Constables B and C's patrol on that particular shift was NUI3.
- 6.3 At 0346 hours Constable B responded to a radio call from the Communications Centre and learnt that a person was smashing windows at the Waitara Police Station. There was no description of the offender or any further details. There was no mention of any weapons being involved.
- 6.4 Constable B obviously couldn't respond on foot and radioed his supervisor, Sergeant PRESTIDGE, and requested that she uplift him so that they could proceed to Waitara some 14 kms distant.

Sergeant PRESTIDGE's call sign on that particular shift was NUS. Constable C then immediately communicated by radio advising Constable B that she had completed her 4L and was about to pick him up. They arranged to meet outside the Mill Night Club on the corner of Powderham and Currie Streets, New Plymouth.

- 6.5 Sergeant PRESTIDGE acknowledged that arrangement between Constables B and C and indicated that she would proceed independently of Constables B and C to Waitara. En route to Waitara, however, Sergeant PRESTIDGE was re-directed to a fight at the Shell Courtney Service Station in New Plymouth.
- 6.6 Two other Police patrols were rostered and working at this time. One of these, whose call sign was NUI31, was attending a disorder incident at the KFC Restaurant while the other, a traffic unit, was completing an EBA procedure at the New Plymouth Station. Sergeant PEOPLES, BTS, travelled to the scene at 0420 hours.
- 6.7 As previously indicated, there was no rostered Police Dog Patrol working in New Plymouth at the time. A Dog Handler and dog were on call at the handler's home and this handler and Police dog were recalled to duty at 0400 hours. The dog handler, however, reports that by the time he dressed and was in the process of releasing his dog from its kennel, he became aware via his portable radio that his services were no longer required. The Constable did, however, proceed to the New Plymouth Station and provided back-up I Car duties for the remainder of the night shift.
- 6.8 Constables B and C re-united outside the Mill Night Club and immediately proceeded to Waitara. They arrived at 0357 hours and immediately their patrol vehicle was attacked and windows smashed by Steven WALLACE
- 6.9 It is noted that Constable B, while waiting to be uplifted by Constable C, requested that Constable A be telephoned at his home in Waitara to be recalled to duty. He did so, realising that Constable A was well situated to quickly get from his home to the Waitara Police Station before Constables B and C could cover the distance from New Plymouth.
- 6.10 En route to Waitara, Constables B and C received further advice from the Comms Centre that someone was trying to rip the phone off the wall at the Waitara Police Station. A description of the suspect was given as being a male Maori, mid-twenties with short hair. That was the extent of the description and again it appears no weapons were mentioned.
- 6.11 Shortly after this communication, a further radio call was received indicating that the offender had got into a black or dark coloured coupe and was heading towards Waitara. This indication of direction of travel was queried by Constable B but did not result in a response.
- 6.12 While travelling half way between Bell Block and Waitara, ie about 5 kms from Waitara, a further radio message was received by Constables B and C to the effect that Constable A had confirmed that all the windows at the Waitara Police Station had been smashed. Constable A had provided this information on his own cellphone. He was not in radio communication with the Comms Centre, New Plymouth Control or Constables B and C.

- 6.13 Constables B and C then arrived in Waitara and their precise activities are recorded in Section 7 of this report.
- 6.14 As the prime objective of this homicide investigation is to determine whether or not any Police Officer is culpable for the death of Steven WALLACE, I do not intend to analyse the activities or deployment of Police personnel after the shooting, other than to consider the consequences that any omission by Police to provide timely medical assistance may have contributed or been a causative factor in his death.
- 6.15 There has been criticism of the Police by some observers at the post shooting scene because Police apparently did not immediately provide medical assistance or comfort to Steven WALLACE. There is no dispute that Police at the scene immediately requested the attendance of an ambulance.
- 6.16. The activities of the Police in the post shooting phase will be a focus of the Police Complaints Authority investigation and I have not attempted to trespass into that territory.
- 6.17 As indicated, however, this investigation must, amongst other aspects, consider causation factors, be they acts of omission or commission which might have contributed to Steven WALLACE's death.
- 6.18 Accordingly, the nature and extent of any medical assistance provided to Steven WALLACE or the absence of such assistance, must be examined to determine what effect that medical assistance or indeed lack of medical assistance, would have had on his chances or ability to survive his wounds.
- 6.19 Advice was sought from Witness 7, the Surgeon who operated on Steven WALLACE following the shooting. Witness 7 advises that while the majority of the gunshot injuries sustained were not life threatening, one to the liver was not survivable irrespective of the timeliness or quality of treatment administered. This opinion of Witness 7 is documented at TAB 32, and reproduced at Paragraph 8.32.
- 6.20 The Pathologist, Witness 8, also records in his post mortem report that Steven's wound to the liver was not survivable. (Refer Section 12)

7 POLICE SHOOTERS' GROUP : PROFILES AND INTERVIEWS

- 7.1 As indicated in the preceding sections, the only Police Officers present in Waitara at the time WALLACE was shot, were Constables A, B and C.

Detailed profiles of each Officer have been prepared and are recorded on the investigation file.

[*Deleted]

(i) **CONSTABLE A****Personal Details**

FULL NAME: [*Deleted]
 PRIVATE ADDRESS: [*Deleted]
 DOB: [*Deleted]
 POB: [*Deleted]
 RACE: [*Deleted]
 COLOUR EYES: [*Deleted]
 COLOUR HAIR: [*Deleted]
 FIREARMS LICENCE: [*Deleted]
 EDUCATION: [*Deleted]
 RANK/REG NO. Constable [*Deleted]
 CURRENT STATION: [*Deleted]

Family

Constable A's mother is $\frac{3}{4}$ Maori and his father European.

His maternal grandmother was $\frac{1}{2}$ Maori and his grandfather full Maori.

Constable A is of [*Deleted]

NAME OF SPOUSE: [*Deleted]
 DOB: [*Deleted]
 RACE: [*Deleted]
 OCCUPATION: [*Deleted]

EMPLOYER: [*Deleted]

[*Deleted]

[*Deleted]

[*Deleted]

Employment HistoryPrevious Employment:

After leaving High School Constable A worked as [*Deleted], a [*Deleted] for a [*Deleted] and a [*Deleted].

He joined the Ministry of Transport on [*Deleted] 1976 and until [*Deleted] 1985, served at New Plymouth deployed on car and motorcycle patrols until resigning to join the Police.

Present Employer:
New Zealand Police.

[*Deleted] 1985 attested at New Plymouth and appointed as a Probationary Constable, aged [*Deleted]. He commenced training at the Police College, Porirua on [*Deleted] 1985, Wing [*Deleted].

Graduating from the Police College in [*Deleted] 1985, he was placed [*Deleted] out of 93.

Described at the time as a mature, reliable member having very good qualities, indicating he would do well within the Police.

Police Service

Commenced Sectional duties at New Plymouth Station in [*Deleted] 1985.

Permanent appointment obtained on 01/04/87.

On occasions has relieved as Acting Sergeant of his Section.

Transferred to the [*Deleted] Station on 07/01/91 through to 24/08/92, working as a Community Constable.

Transferring back to New Plymouth in August of 1992 he worked in the New Plymouth Control Room and Watchhouse until March 1994.

Between March 1994 and September 1995 he served in the Traffic Safety Branch at New Plymouth.

During September 1995 Constable A transferred to the [*Deleted] Station where he is currently working as a General Duties Officer.

Constable A is an active member of the AOS, joining in December 1986. He has attended numerous callouts involving armed offenders.

On one occasion in 1991 he, along with other members of the New Plymouth AOS, were involved in a shoot out at the TSB Bank in Moturoa, New Plymouth thus preventing an aggravated robbery being attempted by armed members of an ethnic gang.

During his service in the AOS he has attended numerous AOS District Training Camps along with local training sessions, the latest being the Taranaki Regional AOS Camp on 27 and 28 April 2000 at which qualification shoot for pistols and rifles were achieved by Constable A (refer Firearms Training at Section 18).

Over the course of his service Constable A has attended numerous training days involving various topics, eg OC Spray and Baton Training.

Interests

Involved in pistol and rifle shooting, Constable A has been a member of the New Plymouth [*Deleted].

He is currently a member of the New Plymouth [*Deleted].

Constable A has represented the New Zealand Police Rifle Team and competed in several national shooting events for the Police.

He has interests in running and runs with a harrier group.

He has been involved in Karate on occasions.

Constable A is a member of the Waitara Fire Service and just recently [*Deleted].

Overall he is described as a very reliable, conscientious Officer who always does his utmost to perform his duty to the best of his ability for his fellow Officers and the community as a whole.

A snapshot of Constable As' career, experience and recent Firearms Training discloses:

- 24 years combined M.O.T. and Police Service;
- 13 years AOS experience;
- 9 years ago involved in AOS incident during which he with other members fired shots at armed robbers;
- Attended six firearms training days since 1 July 1999;
- Attended last training day 27.04.00, only member to achieve maximum possible score.

(ii) **CONSTABLE B**

FULL NAME: [*Deleted]
 PRIVATE ADDRESS: [*Deleted]
 DOB: [*Deleted]
 POB: [*Deleted]
 RACE: [*Deleted]
 COLOUR EYES: [*Deleted]
 COLOUR HAIR: [*Deleted]
 FIREARMS LICENCE: [*Deleted]
 RANK/REG NO. Constable [*Deleted]
 CURRENT STATION: New Plymouth

Family

NAME OF SPOUSE: [*Deleted]
 DOB: [*Deleted]

OCCUPATION: [*Deleted]

NAMES OF CHILDREN: [*Deleted]

Employment Details

No previous employment details on Personal File.

Present Employer:

New Zealand Police

Police Service

Commenced training at the Royal New Zealand Police College on [*Deleted] 1995, Wing [*Deleted].

Graduated [*Deleted] 1995, placed [*Deleted] out of 39.

Described by his instructors as a very intense young man, always giving his best effort and doesn't suffer fools gladly. Willing to work that extra bit harder in order to do well.

At the time of graduation he was not authorised to use Police Firearms due to his experiencing some difficulty mastering the fundamentals of shooting with the Service revolver.

Remedial training ensured improvement. It was recommended that further training at District level would be required to maintain member's skill at an acceptable level. However, he showed a much higher skill with the Service rifle.

In recent times Constable B has passed the Firearm Maintenance Training programmes held at New Plymouth to the level required.

His last Firearms Training session certified him for the period 17/11/99-03/11/00.

After graduating from the RNZPC he was stationed at New Plymouth as a General Duties Constable working on Section.

He was permanently appointed as a member of the New Zealand Police on and from 28/08/97.

On [*Deleted] he transferred to [*Deleted] working as a General Duties Constable.

At the beginning of [*Deleted], Constable B transferred back to New Plymouth working as a General Duties Constable.

On [*Deleted] 1997 he was selected as a member of the Taranaki Police Search & Rescue Squad as a reserve member.

He has since become a full member of the Search & Rescue Squad.

Interests

On a voluntary basis [*Deleted]. This required significant training in his own time, not only for [*Deleted] safety but also medical training and the operation of medical equipment.

He attended a five day advanced First Aid Training Course in September 1998.

He plays basketball and volleyball on a regular basis in season.

He has played basketball for the New Zealand Police in the Australasian Basketball Championships.

(iii) CONSTABLE C**Personal Details**

FULL NAME: [*Deleted]
 PRIVATE ADDRESS: [*Deleted]
 DOB: [*Deleted]
 POB: [*Deleted]
 COLOUR EYES: [*Deleted]
 COLOUR HAIR: [*Deleted]
 RANK/REG NO. Constable [*Deleted]
 CURRENT STATION: New Plymouth
 NAME OF SPOUSE: [*Deleted]
 DOB: [*Deleted]
 NUMBER OF CHILDREN: [*Deleted]

Work DetailsPrevious Employment

Worked as a Receptionist/Accounts person in New Plymouth prior to joining the Police

Present Employer

New Zealand Police

Police Service

Commenced training at the RNZPC on [*Deleted] 1998, Wing [*Deleted].

Graduated [*Deleted] 1998, placed [*Deleted] out of 78.

Described as a competent individual who takes the role of a Police Officer seriously and is eager to learn. A reliable member who works well by herself or as a member of a team supervised or unsupervised.

Posted to New Plymouth and commenced [*Deleted] 1999 as a General Duties Constable working on Section.

In her first Performance Appraisal by Sergeant PRESTIDGE on 20/07/99, she was described after only seven months in the job as showing good initiative and motivation. Her biggest asset being her willingness to learn and has achieved very good development thus far as a Probationary Constable.

Has completed local District training in Baton, OC Spray and Firearms – refer attached District Training Schedule.

7.2 **INTERVIEWS OF POLICE SHOOTERS' GROUP**

Constables A, B and C were each independently interviewed and provided written statements within five hours of the shooting.

Prior to being interviewed, Constable A met with his solicitor, Susan HUGHES, following which he agreed to make a statement.

Constable A was cautioned and given the Bill of Rights by Detective Sergeant BRYAN, the interviewing officer. Constable As' solicitor was present throughout the interview.

(i) **CONSTABLE A's STATEMENT**

*New Plymouth Police Station
NEW PLYMOUTH*

*Sunday 30 April 2000
8.50am*

Constable A states:

*My full name is Constable A. I am a Police Constable currently stationed at [*Deleted].*

I am making this statement to Detective Sergeant Garth BRYAN of the New Plymouth Police about an incident that occurred in Waitara this morning.

I have been cautioned and given my Bill of Rights. I am happy to make this statement.

Also present for this interview is my solicitor Susan HUGHES and Typist Pam Booker.

I have been with the New Zealand Police since 1985. Prior to this I was a Traffic Officer with the Ministry of Transport, for 9 years. My total Police service is therefore 24 years.

*I have been a Constable at [*Deleted] for approximately 4 years. I am a General Duties Constable.*

I am also a member of the Taranaki Armed Offenders Squad. I have been a member of this Squad for 13 years. On Thursday and Friday 27 and 28 April I attended the Taranaki AOS Regional AOS Camp. This was a two day training camp where we undertook training in both practice and procedure. It

also contained a qualification shoot for pistols and rifles. The pistol is a Glock 9mm. I passed both qualifications.

This training included a refresher on how to deal with situations when confronted with an armed offender.

Yesterday 29 April 2000 I worked late shift at [*Deleted]. This is from 1500 – 2300 hours.

At the conclusion of my shift at 2300 hours I went home, had a cup of tea and something to eat and then watched TV. I would have arrived home at approximately 11.15pm.

My shift at [*Deleted] was uneventful.

I went to bed just after midnight and slept until I was awoken by a phone call shortly after 3am.

The caller was Police Communications call taker [*Deleted]. She informed me that someone was smashing the windows at the Waitara Police Station. He had a car and Constable B, who has only just transferred to New Plymouth from working at [*Deleted], had requested I be called and he was on his way to Waitara at the time. That was all she said.

Waitara staff are generally not on call and I believe that the reason Constable B requested I be called is because of the [*Deleted].

After I received this phone call I got dressed in what I am wearing now – trackpants and light blue polo shirt, sneakers. I drove down to the Police Station in Domett Street, Waitara. This would not have taken long – less than 5 minutes, probably more like 2 or 3 minutes. It is only a distance of about 1 kilometre. I was not speeding. On the way I was consciously looking for a person that may have been involved in the smashing of windows or a vehicle.

I took my personal cellphone with me from home and a long baton.

On the way to the Station I did not see anything or anybody.

I travelled from my home [*Deleted], turned right into [*Deleted], and then left into [*Deleted], then right into Domett Street.

When I got to the Police Station there was nobody around or any vehicles, but I did see windows broken in the front of the Station. Most of the windows along the front of the Station were smashed.

I drove into the Police Station, went around the back. I noticed the side windows along the side of the Police Station were also smashed. I can remember driving over broken glass. I went around the back of the Station to see if anyone was there, turned around and came back out.

I also noticed that an unmarked Police car had its side window smashed.

I then drove back out onto Domett Street. I drove towards McLean Street and did a U turn and parked on Domett Street, beside McLean Street. I would have been parked facing the Police Station.

I got out of my vehicle and just stood and watched what was happening around town. It was quiet, nothing happening.

I then heard a car approaching from Queen Street. Queen Street comes from McLean Street over the New Plymouth side of the bridge. The vehicle was noisy because it had flat tyres and the wheel rims were on the road. It was a dark 4 door Japanese car.

It came around the wrong side of the traffic island. It drove towards me and then on an angle with its headlights on, faced straight into the front doors of Peter Budden Pharmacy.

I thought that he was going to ram into the Pharmacy. I thought this because of the way he was lining his vehicle up to drive straight through the doors. I could not see how many people there were in the vehicle.

A person got out of the drivers seat and started to smash the windows of the Pharmacy. I can't say what he was using to do this but it appeared to be a long stick. He had this with him when he got out of the car.

I cannot describe this person, it appeared to be a male.

This person was on the opposite corner to me, on an angle. He would have been 20 or 30 metres away from me. I was on one corner, he was on the other. There was nothing obstructing my view. He did not give any indication that he had seen me.

I was about to call up on my cellphone when a Police car arrived from New Plymouth, along McLean Street. This vehicle did not have siren or lights flashing.

The Police car arrived, stopped and as soon as the Police vehicle arrived this person immediately smashed the windows of the Police car, either the front or the right side window.

I have drawn a diagram showing the position of myself, the person smashing windows, the Police car and the Waitara Police Station.

I am not positive how he got around to the drivers side of the Police car but he seemed to get there pretty quick.

The Police staff in the Police vehicle did not get out of the vehicle.

He swung more than once at the Police car. He was using something long and shiny but I cannot be sure what it was.

I don't recall if he was saying anything as he was doing this.

There was no one else around at this time.

The Police car reversed out of sight of me. I got into my own car. By this time this person opened the boot of his car and got something out of the boot. I believe he used the boot catch release from inside the car.

I do not know what it was he got out of boot. It went through my mind that maybe he was getting a firearm out of his boot. This was occurring as I was getting to and inside my car.

As far as I knew he was still unaware that I was there at all.

I then watched the offender smash windows on the sports shop in Waitara, which is just down from Peter Budden Chemist on McLean Street (maybe 2 doors down).

He was using a long shiny object to smash these windows. He only had one item when he was smashing these windows.

While he was smashing the windows of the sports shop I was driving off.

I drove to an empty section opposite the Police Station. I parked my car in here as I was scared he was going to follow me.

I then sprinted across down the side of the Police Station to the back of the Police Station. The offender was out of sight at this stage. As I crossed the road I was still watching him but as I went down the side of the Station I lost sight.

I was going to the Police Station to get a firearm because I could see this person to be an obvious threat to the other Police Officer and myself. I was also concerned if any members of the public should come along the street.

I went into the back of the Police Station, turned off the alarm. It was then that I heard Constable B call out, is that you Constable A. Unbeknown to me he had already entered the Police Station and was already getting a firearm.

He already had his firearm when I got there. I grabbed a firearm out of the arms cabinet. It was a Glock 9mm. Constable B took a similar weapon.

I also took a holster and one magazine of ammunition. There was also a spare magazine attached in the pouch on the holster.

I loaded the magazine into the firearm, but did not cock it, in that I did not work the action.

I placed the weapon inside the holster.

Constable B did not discuss what we were going to do. We were in a hurry and were only in the Station for a short time.

I also put a duty belt on which contained standard handcuffs and OC Spray. I also had my long baton in my hand.

Constable B got the keys to the marked Waitara Police car. He drove. We drove out of the Police Station yard and at some stage I heard over the Police radio that the offender had gone down McLean Street towards New Plymouth.

At this stage I recall that Constable B making a statement to the effect that the offender was mad.

At this stage my role was to be with Constable B and back him up. I did not realise there was another person in the Police car that came from New Plymouth.

Whenever there is a person with a weapon who is behaving threateningly it is common for Police to arm themselves.

The fact is it ran through my mind, given that Waitara is an isolated township some distance from further back up, I believed that Constable B was on his own as I had not seen a second person in the Police vehicle, I knew that we were dealing with a person behaving extremely erratically and dangerously and that there was the possibility that he had taken a firearm out of the boot of his car. I was concerned.

I had seen a guy who was armed with a weapon attack a Police car, and once this Police car had driven away I saw him open his boot and thought there may have been a firearm in the boot.

When we were in the Waitara Police vehicle Constable B was driving. We heard that the vehicle had gone along McLean Street.

We drove out of Domett Street, left onto McLean Street, stopped at the Gray Street intersection. The offender's car was parked facing into Major Decorating on McLean Street. We stopped in the middle of the intersection.

We both got out of the Police vehicle.

The male offender immediately came towards Constable B. He was angry, very angry. He said something like, you've fucked me around too much, too often (words to that effect). He was yelling and swearing. He said a lot of things over and over again, repeating himself.

He was moving towards Constable B quickly. He had two objects in his hands. One in each hand. I can't say how he was holding them. I could see one was a baseball bat, a metal (aluminium) one and a golf club (an iron).

At the time he saw us there would have been a distance of about 20 metres between us. As he was advancing I kept a distance of at least 20 metres between us by taking backward steps.

I believed that this person was Witness 2 who is known to me. I actually called out his name, Witness 2, what's going on, can we talk.

He advanced on me, I was retreating. He seemed to focus on me. He then hurled a golf club at me. It spun towards me, I ducked down and it went past me. I am not sure where it ended up. The weapon was thrown with force. He continued to say things like he'd had enough, you're persecuting me.

I was still retreating.

Constable B was moving back as well. With the offender as one point we kept a sort of triangle shape with equal distance between myself and Constable B.

At that stage I drew my weapon (after he had thrown the golf club). I am not aware what Constable B did with his weapon. The offender was still armed with the baseball bat. He held it up in front of his body with both hands. The bat was over his shoulder similar to an axe grip. I took this to be an aggressive posture.

I told him I was armed. I said, Witness 2 I am armed.

This didn't seem to have any effect on him, he didn't back off. I yelled out to him more than once, maybe two or three times, that I was armed.

At the time that I drew my firearm he was in the middle of the Gray Street intersection and I was still 20 metres from him down McLean Street.

He was advancing towards me at a fast walk, taking big strides.

I cocked my weapon about the same time I told him I was armed. He would have seen me cock my weapon.

I continually called out to him, Witness 2 I am armed, can we talk, what's going on.

Witness 2 lives just down the road from me. We are on reasonable terms. I still believed it was Witness 2 who was approaching me. This is the reason I carried on talking to him. I thought I had a rapport with him. I had no reason to believe Witness 2 was a dangerous person and I had not found myself in conflict with him before. I was confident that if it was Witness 2 then I could talk to him.

After he had thrown the golf club at me and I had pulled my weapon, he advanced quicker on me than what he had done. I was retreating very quickly, taking backward steps.

At one stage he said to me, holding the baseball bat up, if he got me he was going to do me or harm me (or words to that effect). I believed at that time if he got to me he intended to do me some serious harm. I got this from his words and his actions.

It seemed to me that things were escalating at this point.

I was quite convinced that he would attempt to get me.

I fired one shot into the air, a warning shot. At this stage I would have retreated about half of the block from my original position. The gap between me and the offender was still the same, about 20 metres.

The warning shot was directed up into the air.

When he heard the warning shot he kept on coming towards me. He was coming at a constant pace, fast.

After the warning shot I did tell him that I would shoot him if he came any closer.

Between the time that I got out of the car and he had begun advancing on me, and the time I fired the warning shot everything was happening very quickly and I am unsure how long this all took.

I fired the shot into the air, while continuing to go backwards. I had almost gone right back to the footpath on the opposite side of the road, near the sports shop. The offender at this stage was closer to me than he had been before and I would estimate that distance at 10 metres approx.

At this stage he was directly in front of me, with my back to the shops. Constable B was on my right hand side, about 20 metres further up McLean Street. At this stage I felt my exit was being closed. The offender was advancing more quickly and closing the gap significantly.

I genuinely feared for my life. He was continuing to say he was going to do something to me with the weapon that he was holding. He still held the baseball bat above his head in a threatening manner and his words were to the effect he intended me harm. He was continuing to advance towards me.

From the time I got out of my vehicle I continually reminded him that I was armed, that I would shoot him if he kept advancing. I said this time and time again as he was advancing on me down the street. The words and the manner in which I was given is something which we are trained in and is second nature.

I was shouting these words to him. There is no doubt that he heard what I was saying.

I never stopped retreating. My pace of retreat was constant but the gap was getting smaller.

I then fired three shots. I shot instinctively at the offender. It was dark, there were just three shots in his general direction. They were three shots in rapid succession.

As I fired the three shots I fixed myself to the ground which is an armed offenders post shooting drill.

The offender fell to the ground slowly, he tried to get up and flopped back down on the ground, several times. He was moaning, I could not understand what he was saying.

Constable B walked around to the left of me after the shots were fired.

At the time I fired the three shots I was still on the road, just over a metre from the footpath. I would put the offender either on the centre line or my side of the centre line. The gap at this point would only be only about 5 metres.

He continued to try and get up. I stayed where I was. Constable B got closer to him. I noticed that the baseball bat had rolled down with the camber of the road, towards me.

I then made a couple of phone calls. Constable B called for an ambulance on his portable radio.

During this time the offender continued to try and get to his feet. He was moaning and groaning because he was obviously in pain. He actually got to his feet at one stage, before falling back down again. I did not say anything to him.

At this point I was in shock. I struggled to speak when making the phone calls.

I had holstered my weapon, although I am not sure exactly when I did this. It is normal practice to cover the offender.

I made three phone call on my cellphone. The first one was to the New Plymouth Police Station. I got Witness 12's phone number and Witness 13's. This would have been 2 minutes or so after the shooting.

I continued to hold my ground for 10 minutes.

After I got the phone numbers I made a call to Witness 12 to tell him what had happened. I then rang Witness 13 to tell him what had happened also. I did this because they are fellow Armed Offender Squad members who had been involved in another Police shooting incident with me in 1991. I was seeking support from them.

I have never shot anyone before. At this 1991 Moturoa Postbank incident I was shot at and returned fire but did not hit anyone. The Moturoa incident relates to Police having been forewarned that Black Power were about to rob the Moturoa Postbank and we were inside waiting for them.

At some stage a person came to the gate by the Post Office telling us to go and look after the person who had been shot. By this time the position I had

been in when firing the shots had been marked. Sergeant Fiona PRESTIDGE had arrived by then. She arrived between 10 and 15 minutes after the three shots were fired.

After my position had been marked I went over to the member of the public who had come to the gate. This person was complaining that we had not given this person a blanket or administered first aid to him. This person is known to me and is a person I have previously [*Deleted]. He made it clear to me he had seen what had happened and that I had fired 6 shots. I told him he couldn't count. He then changed his mind and said it was 5. He was concerned that we provide some aid to Mr WALLACE. Someone took a blanket from him to put over the offender.

Sergeant PRESTIDGE came over and recommended I move away. I took her advice walked back to the area where the Waitara Police car was. I got Police tape out of the boot of the car. By this time Sergeant O'KEEFE had arrived. I spoke to him about the incident. He put the barrier tape in place.

Sergeant O'KEEFE took me back to the Waitara Police Station. I left my firearm in the custody of Sergeant O'KEEFE, [*Deleted]. It was still loaded, cocked in the holster.

The ambulance had arrived by this time.

Before I shot at the offender I believe I had exercised all other available options by retreating, firing a warning shot and shouting at him that I was armed. Given that the gap between him and I was getting smaller I believed if I turned and ran there was a high probability that he would have been able to hit me as I retreated. Given the aggressive and persistent manner of his advance I feared for my safety if he did so.

As the offender was advancing towards me I could smell alcohol on him.

By this stage the distance I had retreated was 50 metres. Initially the gap between us was approximately 20 metres but eventually it was 5 and closing.

I did not consider using OC Spray on the offender. Things were happening very quickly, I had my hands full, he was continuing to advance and I did not have time. I had OC Spray on my left hand side. To have accessed that I would have had to holster my weapon, undo the pouch the spray was in, get it out, break the seal and activate the spray. Given the weapon that the offender had, attempting to use OC spray would have placed myself in greater danger.

I also did not consider using my baton at the point I shot the offender because I would not have had time and it would not have been effective against the baseball bat.

At the time I got out of the Police car I did not consider OC spray because of the distance between the offender and myself. It would have been ineffective at that distance which was approximately 20 metres.

When I got out of the Police car I would have had the baton in my hand but I elected to draw my firearm and placed the baton in the loop of my duty belt. I considered that the baton would be ineffective against the baseball bat and the other weapon he was holding.

At the time I shot the offender I did not consider I had any other options available to me, to defend myself. I was in fear of my life and he left me with no alternative but the one I took."

[*Deleted]

(ii) **CONSTABLE B's STATEMENT**

30 April 2000
 Police Station
 NEW PLYMOUTH
 0638 hours

Constable B states:

*That is my full name. I am [*Deleted] old and was born on [*Deleted]. I am a Police Constable stationed at New Plymouth. I have been a Police Officer for 5 years.*

I am making this statement to Detective Bruce IRVINE of the New Plymouth Police about an incident that occurred at Waitara this morning.

At about 10pm on Saturday the 29th of April 2000, I commenced work at the New Plymouth Police Station on night shift.

*The shift consisted of six staff. Sgt Fiona PRESTIDGE, Constable C, Constable [*Deleted], Constable [*Deleted] and Constable [*Deleted]. My duties were as crew of the main New Plymouth I Car, with Constable C. Our call sign was NUI3. Constable [*Deleted] and Constable [*Deleted] were NUI21 and Constable [*Deleted] was the Watchhouse Keeper. There was no dog handler working the night shift.*

The shift progressed fairly normally for a Saturday night. I attended an assault complaint in Inglewood and some minor disorder matters in central New Plymouth. I also attended a sudden death at Taranaki Base Hospital.

At about 0340 hours I was walking the beat in Central New Plymouth. Constable C was doing a 4L job and I had decided to walk the beat until she was finished.

Whilst walking the beat I received a call from the Comms Centre that a person was smashing all the windows at the Waitara Police Station. They did not have a description of the offender and could give no further details. They did not say if there was any weapons involved.

*I called NUI, Sgt PRESTIDGE, and asked her to pick me up. Constable C then called and said that she had completed her job and was nearly back to pick me up. I then called Comms and asked them to phone Constable A of the [*Deleted] [*Deleted] and would be able to get there before we did.*

Constable C picked me up on the corner of Powderham Street and Currie Street outside The Mill Nightclub and we went straight out to Waitara. Sgt PRESTIDGE was also attending but she was directed to a fight at the Shell Courtenay Service Station.

NUI31 was attending a disorder job at the KFC restaurant and the swing shift car was, I think, attending to a job in the Oakura area.

*The swing shift car was Constables [*Deleted] and [*Deleted] who were covering for the usual Tactical Squad swing shift. The late shift staff had finished work at 0200 hours. I would say that from the time I got the initial radio call, till the time we arrived at Waitara would have been about 15 – 20 minutes. I think we arrived in Waitara at about 4am.*

On the way to Waitara we received a radio message from COMMS that someone was trying to rip the phone off the wall at the Waitara Police Station. They gave a description of the suspect as a male Maori in his mid twenties, with short hair. That was the only description.

Shortly after passing through Bell Block we received a radio message from COMMS saying that the offender had got into a black or dark coloured coupe and was heading towards Waitara. I queried this with COMMS as the previous information had the offender in Waitara. I did not get a reply to this query. COMMS only ever mentioned one offender.

As a result of this information I kept an eye on all passing traffic for a vehicle matching the description given. We only passed a few vehicles on the way out and none of them matched the description. It was my intention to stop any cars matching the description that we saw.

About halfway between Bell Block and Waitara we received a radio message saying that Constable A had got to the Waitara Station and all the windows had been smashed. I am not sure if this message came from COMMS or from the New Plymouth Control Room.

Constable C was driving the patrol car on the journey to Waitara. She had the flashing red and blue lights activated the whole way out and I estimated that we travelled at about 130 k/h on the way out where we could. There was very little traffic on the road.

As we entered Waitara via the Nelson Street entrance I turned the lights off. This was so as not to give the offender warning of our arrival. Constable C asked me for directions to the Police Station and I directed her to drive down the main street to see if we could see anything.

We travelled from Nelson onto McLean Street, which is the main street.

There was no movement on the main street at all.

When we got to about the BP Station, which is Rosewarne Motors on McLean Street I saw a vehicle drive across the road and up onto the footpath. It stopped with its nose almost touching the glass doors of Peter Budden Chemist shop.

I did not see where this vehicle came from as I had been looking around on the trip up the main street. I had the impression that the vehicle came out of Domett Street. I am pretty sure that it had its lights on and if it had been driving towards us on McLean Street I would have seen it.

The car was a Japanese car. I do not know what make. It appeared to be in good condition and looked like a nice car. It was a silver or grey colour, quite light. The vehicle did not go quickly onto the footpath. It appeared to just drive smoothly onto the footpath and stop. I think that I made a comment to Constable C that, "that looked a bit off".

Constable C then pulled over to the left to stop and see what this person was doing.

We were still moving to the left when I saw the driver of the grey car get out. We would have been about 20 metres from the car at this stage.

The driver of the grey car walked around the back of his car and out into the middle of the left hand lane of the street. He did not run but he had a

determined walk. He headed straight towards us without any hesitation at all. It was at this point that I noticed that he had something in his hand. I could not tell at this point what it was he was carrying in his right hand.

By this stage the patrol car had stopped. It was slightly to the left of the centre of the left hand lane.

As the guy approached the car I could see that he was a male Maori with short dark hair. The most notable thing about him was his eyes. He had an extremely angry and determined look in his eyes and they were fixed directly on us.

As he approached the patrol car, he moved slightly to the drivers side of the car. He raised the object he had in his hand with both hands and it was then that I noticed that it was a golf club. It was obvious that he was about to attack us with the golf club. I said to Constable C to back up. I can't recall the exact words I used but I said it with some urgency.

Constable C was attempting to get the vehicle in reverse when the golf club came through the windscreen. It was just on the drivers side of the centre of the windscreen.

Glass from the windscreen showered into the car. There was a hole where the club head came through and the rest of the screen was all shattered but still in place. The club did not hit either of us at that stage. I cannot recall if the offender said anything at that stage.

The offender pulled the golf club from the windscreen and then went around to the drivers side of the car. I cannot recall if he smashed that window or not. He had the club raised up again. It was then that Constable C got the car into reverse and backed up about half a block. This was about 25 or 30 metres and we stopped again.

The offender began walking towards us again. Constable C then drove forward again and went out to the right hand side of the road to go around him. The offender then started running towards us so Constable C accelerated away. The offender still had the golf club raised up in the air.

As we drove away I picked up the radio and said that a guy had got out of a car and had smashed our windscreen with a golf club. I said to call Constable A at the Waitara Station and tell him to get a gun.

I mentally considered how we were going to deal with this guy. I considered battens and pepper spray but decided that we would never be able to get close enough to him to spray him. He was out of control and would obviously attack anything or anybody.

As we drove past the offender he was on McLean and just west of the Domett Street intersection. He would have been about 10 metres west of the intersection.

We drove across the Domett Street intersection and went around the roundabout at the Queen Street intersection and headed south on Queen Street.

As we went around the Queen Street roundabout I looked back and could see the offender still in the same area on McLean Street.

I do not recall getting a response to my radio transmission.

I think I told Constable C to drive around the block to the Waitara Police Station. I think I said that I would get a gun.

I do not recall making any further radio transmissions on the way around the block. I do not recall receiving any or hearing any on the radio.

When we pulled up outside the Police Station we could see the offender still on McLean Street, on the Domett Street intersection.

I got out of the car and told Constable C to keep an eye on the offender. I went to the front door of the Police Station and entered the door code but it was bolted from the inside. I could see that the windows were smashed in the Police Station.

I then ran around to the back of the Police Station down the vehicle accessway. As I turned away from the front door I saw Constable A pull up across the road. He was in his private vehicle.

I did not wait for Constable A. I went to the back door and entered the code to get into the Station.

At this stage I could hear Constable C making radio transmissions, giving the offender's location.

*I shut the station door behind me and went directly to the property room of the Station, which also contains the firearms cabinet. I entered the code to get into the property room. I know all the Waitara Station codes as [*Deleted]. After I got into the property room I locked the door behind me. I thought that if the offender came up then Constable C could drive away. It would not have been difficult for the offender to get into the Station. I also thought that Constable A could drive away.*

I had just got into the property room when I heard someone come into the Station through the back door. The internal burglar alarm was sounding in the Station as I had not turned that off. I could hear the person enter the Station above the alarm. I heard the person come down the hallway. I yelled out something like, is that you Constable A and he replied so I opened the door for him.

*We then opened the firearms cabinet [*Deleted]. Both Constable A and myself armed ourselves with Glock handguns and two magazines of ammunition. I also took the standard issue Glock holster. Constable A took the same.*

Constable A and I briefly discussed the offender and what a nutcase he appeared to be. Constable A said that he thought the offender may have been Witness 2. We were also listening to Constable C's radio transmissions as to the whereabouts of the offender. As we left the property room Constable A said that he didn't have belt so he went back into the property room to get one. While he did that I grabbed the keys for one of the Waitara patrol cars.

Constable A and myself then left the Waitara Station in the Waitara car. I was driving. As we were leaving I heard Constable C say over the radio that the offender had got back into his car and was driving up McLean Street.

As we came out the driveway of the Police Station I could see that Constable C had moved up to the corner of Domett and McLean Streets to keep observations on the offender.

I drove around Constable C's patrol car onto McLean Street, heading west. I saw the offender's car parked on McLean Street on the western side of the intersection with Grey Street. It was parked on the south side of the road and I think was outside a painting and decorating shop.

As I drove up McLean Street I could see that the offender was out of his car. I parked the patrol car in the middle of McLean Street straddling the white line but on the eastern side of Grey Street. I would say that we were about 15 – 20 metres from the offender's car. I did not have the roof lights on but it was a marked Police car.

Both Constable A and myself got out of the car. I walked into the middle of the intersection. Constable A went to the middle of the westbound lane. At this point the offender was beside his car. He then walked out to the middle of the westbound lane. I could see that he was holding a steel shafted golf club in one hand and an aluminium baseball bat in the other hand.

As soon as I saw that he had the weapons I took my handgun from its holster and trained it on the offender. I said, "Armed Police, drop your weapons", or "Put down your weapons". I said this several times, the offender completely ignored me and did not even acknowledge my existence.

*As we had stopped the patrol car, a [*Deleted] coloured [*Deleted] sedan came up McLean Street behind us and then turned left into Grey Street and parked about 10 metres from the intersection. I am pretty sure that 4 people got out of the car and stood there watching. At this stage the offender had walked back across the intersection and was directly in line with these people.*

I yelled past the offender at these people. I said, "You get back in your car and fuck off". I think they got back in their car but we then moved out of sight of them.

This happened after I had challenged the offender.

I returned my concentration to the offender and I saw him throw the golf club at Constable A. I could hear the offender yelling, "You fucking arsehole, I'm going to fucking kill you". This was directed at Constable A.

I could hear Constable A continuously talking to the offender. I heard him say, "Witness 2, Witness 2 what are you doing, it's me Constable A, what are you doing. Put down the bat". Constable A obviously still thought that the offender was Witness 2.

The offender continued yelling at Constable A, threatening to kill him.

He made a beeline straight at Constable A. He was striding determinedly towards Constable A. He had already thrown the golf club at Constable A and he had the baseball bat in his right hand, waving it around and holding it up.

Constable A was walking backwards at this stage. He was walking backwards quite quickly. He was trying to stay as far away from him as he could.

I heard Constable A say to the offender, "I am an armed Police Officer, put your bat or your weapons down". I heard the offender say in reply, "You fucking arsehole, I'm going to kill you". He didn't slow down and he didn't put the bat down.

Constable A also had his handgun out pointing it at the offender.

It was still dark but the street lighting was good on the main street. I had no difficulty seeing the offender or Constable A.

At this point we were all travelling up McLean Street towards the River. Constable A was walking backwards with the offender following him. I was keeping pace with the offender still with my gun trained on him.

The offender was walking in the middle of the west bound lane and Constable A and I were in the middle of the east bound lane. We had all moved about on the street. The offender was following Constable A. Wherever Constable A went the offender followed.

As we moved along the street I became lined up with a house. The lights were on and there were people standing in the front doorway watching what was going on.

As I became lined up with the offender and the people in the house, I moved across towards the south side of McLean to change the line of fire.

At this point I felt that if he got close to Constable A or turned towards me and got close to me, that I would have to shoot him. I am sure that had he got close enough to either of us to use the baseball bat, then he would have used it to carry out his threats. I have absolutely no doubt about that at all.

Once we had travelled past the house, I moved back towards the northern side of the road as Constable C and her car were coming into the possible line of fire. I did not actually see Constable C and could only see the car. I assumed that she may be still in the car.

I do not recall hearing any radio transmissions when we were walking up the street. I was concentrating on what was happening in front of me.

I do not recall seeing any other people in the area, apart from those I have already mentioned.

The house where the people were standing in the doorway is basically on the corner of Grey Street and McLean Street. It is set back from the road a bit. Next to it is an empty shop that gets used as a community centre. Next to that is a Post Shop and next to that is the Post Office and after that is the Dornett Street corner.

After I had moved back round to get Constable C's car out of the line of fire, I was in front of the community centre. The offender was in front of the Post Office and Constable A had backed himself towards the gutter on the north side of the road.

Constable A was talking to the offender the whole time. The offender was continuously making threats to kill Constable A.

When the offender was in the middle of the west bound lane of McLean Street and in front of where the community centre and the Post Shop join, and Constable A was in the middle of the east bound lane of McLean Street, on an angle to the offender, Constable A fired a warning shot over the head of the offender. This was clearly a warning shot and was fired well over his head.

The offender did not acknowledge this shot. He continued screaming and threatening Constable A and he then increased his speed towards Constable A. He did not break into a run but his walk was more determined and he had the baseball bat raised up in the air ready to strike Constable A.

I could see that following the firing of the warning shot the offender became more determined to get to Constable A. He said again, "You fucking arsehole, I'm going to kill you".

As the offender was approaching Constable A I realised that he was not going to stop and that one of us was going to have to shoot him. I had made the decision that if Constable A did not shoot him, then I was going to. I was positive that had he reached Constable A, he would have had no hesitation in hitting him with the bat, with the intention of killing him.

I was also positive that had he reached and killed Constable A, then he would have come after me next.

The offender continued advancing towards Constable A and when he was about three metres from him, I saw Constable A shoot the offender. I think I heard three shots fired. There may have been more but I only heard three distinctly.

I did not fire any shots.

All three shots that I heard were in fairly quick succession.

The offender seemed to hesitate, then his arm went to his side and he dropped the baseball bat on the road. It rolled away from him towards the gutter. The offender then sort of crumbled into a heap on the ground. He lay on the road and then started groaning.

I continued covering the offender on the ground. I then went across to Constable A and asked him if he was alright. He said that he was. Constable A remained where he was, to mark his position.

I then went towards the offender still covering him. He was lying on the ground moaning and waving his arms around. I put my gun into its holster and bent down and put my hand on him. I said, "Look mate, stay still, there's an ambulance on its way." He did not say anything to me in reply.

Prior to going up to the offender I called COMMS and requested the ambulance. This call was acknowledged.

Shortly after this the on call Dog Handler called asking if there was still a threat. I told him that there wasn't.

Constable A was standing in the same spot. Constable C had got out of her car and come over. We were trying to find something to mark Constable A's position with. Constable C was stopping traffic from entering the scene.

About 10 minutes after the shooting NUS Sergeant P arrived. She called COMMS and requested that more staff be called out.

The people from the house came out and some of them were complaining that we weren't doing anything for the offender. They went back into their house and came back with a blanket. I got the blanket from a lady and put it over the offender. Sgt P got a first aid kit and began first aid to the offender.

About 20 mins after the shooting the ambulance arrived and the ambulance staff began attending to the offender.

During the time I spent with the offender he did not say anything except to main and say "It hurts".

During this time more Police staff had arrived.

Once everything was under control at the scene I walked back to the Police Station.

Before more staff arrived I did not want to get too close to the offender as he was still moving around and waving his arms about. I still had my gun on and I didn't want to give him any opportunity to get hold of it.

Once I arrived back at the Station I was advised to put my firearm back in the cabinet. I did this and signed it back in.

Sgt O'KEEFE and Witness 12 were at the Station when I arrived.

I would estimate that the time from when Constable A and myself parked the patrol car at the Grey Street intersections until the time the offender was shot was no more than two minutes.

I do not think that pepper spray would ever have been an option as we would not have been able to get close. For the same reason a baton would not have been an option either. I also think that even if a Police Dog had been present it would not have been able to be deployed as the offender would have killed it with the bat.

One of the things that stood out the most was the offender's eyes. He was incredibly angry. I could not tell if he was on any drugs but I did notice that when I got close to him after he was shot, he smelled strongly of alcohol.

I also recall that after Sergeant P arrived I went to the Waitara Station and got some tape to mark Constable A's position. Upon my return I marked his left foot.

I am positive that had we not stopped the offender then he would have killed someone in the Waitara area. He appeared hell bent on destruction of property and people.

I have read this statement and it is true and correct. I have nothing further to add."

On 17 May 2000 Constable B made a supplementary statement in which he records the following (refer TAB CONST B):

"... I recall also, with regard to the warning shot fired by Constable A, that this was fired when Constable A and the offender were still in the west bound lane of McLean Street.

When the offender continued in his advance towards Constable A and was about three metres from Constable A, he was advancing in a direct line, and at right angles to the road.

When he was shot by Constable A, he was directly in front of him.

I also recall that when the offender first advanced on Constable A across the intersection of Grey and McLean Streets, I distinctly heard Constable A rack his Glock pistol.

At the time Constable A shot the offender, I was about 4-5 metres to the immediate right of Constable A.

Myself, Constable A and the offender were in a triangle formation....”

(iii) **CONSTABLE C's STATEMENT**

*Police Station
NEW PLYMOUTH*

*30/03/2000
7.31am*

Constable C states:

My full name is Constable C. I am a Police Constable stationed at New Plymouth.

*My date of birth is the [*Deleted]. I graduated from the Royal New Zealand Police College at Porirua [*Deleted] 1998. My QID is [*Deleted].*

*I am currently working on Section [*Deleted] at New Plymouth, working General Duties.*

I am making this statement about a shooting at Waitara on 30/04/00.

At 10,00pm on Saturday the 29/04/2000 I commenced night shift duty at New Plymouth.

I was rostered to work with Constable B as NUI3.

The Police car, a marked vehicle we used was XX8971.

At about 20 to 4 Sunday morning the 30th of April 2000, after having a done a 4L to Merrilands, I received a radio call from the Communication Centre in Wellington that someone was smashing up the windows at the Waitara Police Station.

As I was by myself at this time I went and uplifted my partner, Constable B, from the corner of Currie and Powderham Streets, New Plymouth.

We then travelled directly out to Waitara, the blue and red lights were activated and flashing en route to Waitara. I was the driver. As we were travelling out to Waitara COMMS was updating us via the Police radio what was happening out at Waitara.

We were told that there was a car parked outside the Waitara Police Station, with its lights on. It was described as a dark coloured coupe.

*En route to Waitara Constable B contacted COMMS requesting the attending of Constable A from Waitara who [*Deleted] to the Waitara Police Station.*

Also we were advised by COMMS that the person and the car outside the Waitara Police Station had moved off, COMMS apparently said towards Waitara.

As we were coming down the main street of Waitara, McLean Street from the direction of the New Plymouth end Constable B turned off the blue and red flashing lights. The normal headlights of our car were still on.

From a distance I could see a car with its headlights on pull into the corner of Domett and McLean Street facing the front window of Peter Budden Chemist.

It was parked up with its front wheels on the footpath. It had its headlights on.

I said to Constable B, that's a black car, that might be it.

He said, "Yeah, we'll check it out".

I parked the Police car alongside the rear of the car. I didn't park directly behind it, just a little bit back from the rear.

Our engine was still running. I couldn't say if the other vehicles motor was running.

At this time we were inside the Police car.

The next thing I can remember is seeing a male come from around the drivers side of the dark coloured car,

He came around towards the front of our car.

He had about a metre long stick of some kind in his hand. When I first looked it looked like the hand piece of some kind of metal pipe.

He came running up with it in one or both of his hands. The person was yelling and screaming out, but I can't recall what he was saying.

Then Constable B said, "Back up, put it in reverse" (meaning the car).

The next thing the guy hit the front of our car windscreen on the drivers side. The front screen shattered, just part of the drivers side. That was when Constable B said again, put it in reverse (the car).

As I was putting the car in reverse that was when the drivers side window was smashed. This happened when I was looking down to put the car in reverse.

As a result glass just littered inside and outside of our car.

It was as the side window smashed I reversed back from the guy, about ten metres.

I then drove forward and went past the guy's car. By this time the guy went up to the windows of the chemist shop and began smashing with stick type item and was still yelling, ranting and raving.

The next thing I can recall is parking outside the front of the Waitara Police Station, Constable B going inside. Prior to this I asked Constable B what should I do and he told me to continue driving around.

Constable B told me he was going inside the Waitara Police Station to get a firearm.

I remained in the Police car and stayed close by to the Station.

From where I was positioned I could see the guy in the vicinity of the Peter Budden Chemist.

The next thing I saw the guy get in his car and drive in a southerly direction along McLean Street towards another lot of shops.

I reversed back to front of the station and told Constable B that he was moving.

I then drove forward again to McLean Street and observed the guy get out of his car and proceeded to smash another lot of shop windows with the stick.

That was when I drove around the block in a clockwise direction and arrived back outside the Police Station.

That was when I saw Constable A run across the road on Domett Street and run around to the back of the Police Station. I drove around to the back of the Police as well.

I then called out to Constable A and asked him what he wanted me to do.

Constable A told me to drive up and keep obs on the guy and give sit reps.

I drove onto Domett Street and turned left into McLean Street and just went around the corner and stopped and observed the guy get into his car and drove and parked nose into the Major Colours paint shop.

He got out of the car and proceeded to smash the shop windows there.

I then informed COMMS on the radio of what was happening.

It was then that the Police car came from the Waitara Station. Constable A and Constable B were in it. I can't remember who was driving. It was a marked Police car.

They drove past me on my right. I still had obs on the guy by the paint shop.

They parked diagonally in the middle of the road by the Grey and McLean Street intersection. The car was facing on an angle in the direction of the paint shop.

At this time I was parked around the intersection of Domett and McLean Streets.

The next thing I can recall is seeing Constable A and Constable B standing on the chemist shop side of the road. They were opposite the Post Shop.

Constable A was closest to me and Constable B was near their Police car.

The guy was still going off, he was swearing loudly. I can't recall what he was saying. By this time the guy was just on the Grey Street side of the Post Shop.

Constable A and Constable B had their firearms out and pointing in the direction of the guy who was still ranting and raving and still had the stick in his hand.

Constable A was talking to the guy. He was warning him but at the point in time I can't recall what words he was using. But I can say he was warning him.

The guy began coming towards Constable A and Constable A was backing away. Constable A still had his firearm pointed in the direction of the guy. The guy still had the stick in his hand.

I can recall the guy saying "Fuck" all the time but I can't recall what else he was saying.

Meanwhile Constable B was making his way towards Constable A and still with his firearm pointed at the guy.

As Constable A was walking backwards and the guy was still coming towards him, the guy would be about five metres from Constable A. I heard a warning shot fired. By this time Constable A was still on the road outside the Sportsworld store. The guy by this time was just over the centre line of the road on the seaward side of the street still coming towards Constable A.

Constable A continued to talk to the guy who was coming towards him.

The next I heard shots from Constable A. I can recall hearing four shots or possibly five shots. I first heard two and then two or three straight after.

After the first two shots after the first warning I could tell that the guy had been hit because the guys body jolted and he slightly stumbled. But the guy was still ranting and raving. After the other 2 or 3 shots the guy fell to the ground on the road. The guy I would estimate being some 3 or 4 metres away from Constable A when he fell.

I think at this stage I was still by the Police car, or inside the car, the drivers door was open.

I can recall this because New Plymouth Control told me to stay inside the car.

As soon as the shots were fired and the guy fell to the ground I called on the Police car radio to say he was down and to call an ambulance. COMMS acknowledged my call.

Constable A called out, "Call an ambulance". I told him I already had.

Constable B then called on the radio, the portable radio he was holding and told that we have one down and to call an ambulance. This was only a couple of seconds after I had requested the ambulance.

Constable A stayed where he was and Constable B moved towards the guy on the ground. I saw a baseball bat on the ground outside the Sportsworld store. The guy on the ground then started to try and get up from the ground. He then just slumped back down.

When I saw the guy try and get up I called up on the car radio and told them he was getting up again. That was when he slumped back down.

Then COMMS called up and asked, "Can you confirm if the person was still a threat".

Constable B replied, "No".

Constable A then asked me to get a spray can from the car. I went to the boot of my car and there wasn't any.

I told Constable A and Constable B I haven't got any.

The next thing I can remember is Constable B going down to the Waitara Police Station to get some tape. He came back and marked with sticky tape the position where Constable A was standing.

The guy on the ground was groaning, he was saying the odd word but I can't recall what.

Sergeant PRESTIDGE then arrived on the scene.

Meanwhile the ambulance hadn't arrived and I can recall hearing on the radio someone asking COMMS to confirm that the ambulance had been called.

Sergeant PRESTIDGE went to check on the injured person on the ground.

I was requested to see if we had any pads or anything to use on the injured person but there was none about. Meanwhile the ambulance arrived.

Ambulance staff started working on the injured person.

I was then asked to do chest compressions on the guy. I continued to do this until a second ambulance arrived.

The injured person didn't say anything, he was frothing at the mouth and blood coming out from his chest under my hands where I was doing the chest compressions.

Prior to assisting with the ambulance staff I spoke to some people who were observing, to see if they had seen what had happened prior to the shooting. I recorded one of those persons details in my notebook.

*The person was Witness 14, [*Deleted] Street, Waitara, phone [*Deleted]. I informed him the Police would be in contact with him later on.*

While doing the chest compressions I saw that the injured person had a wound/s in his chest, one on his right arm and one on his left arm.

I accompanied the injured person to the hospital in the ambulance. He never spoke at all.

I was in the emergency room at the Accident and Emergency Department of Taranaki Base Hospital the whole time while he was being attended to, with the exception of a few minutes when I was speaking to Witness 12 who asked me to check for any identification of the injured person.

While at A & E Hospital staff removed his clothing, namely a pair of Levi 507 button fly jeans, one pair of black Fila shoes, a pair of green undies. In the pocket was \$9.70 in cash.

In another pocket was a black leather wallet. Inside contained various cards and the name of Steven James WALLACE and \$20 cash.

I conveyed this information to Witness 12. That was at 5.50am this morning.

I remained with WALLACE while he had IT scan and later taken to theatre.

At which time I remained outside theatre until Detective THORNE and Constable HOPKIRK arrived which was at 6.48am.

Meanwhile the clothing and wallet were placed in a white plastic bag and remained with me and were taken back to the New Plymouth Police Station where they were later secured.

I returned with Detective THORNE to the New Plymouth Police Station at 6.56am.

[*Deleted]

I have read this statement and it is true and correct.”

8 **KEY WITNESSES**

Witnesses within this category are exclusive of Constables A, B and C but comprise those significant witnesses who have witnessed events prior to, during or immediately after the shooting incident.

In general terms, these witnesses can be categorised as witnessing events at the following scenes:

- Broadway
- Waitara Police Station
- Waitara Fire Station
- Waitara New World Supermarket
- McLean Street

To ensure that readers of this report are provided with the precise narrative of these respective witnesses, material extracts and, in many cases, the witnesses' complete statement(s) have been provided chronologically to the extent that this is possible. Some witnesses have witnessed more than one event and therefore their statement(s) may not always follow chronologically, perhaps tending to jump ahead of the event flow on occasions.

8.1 **Witness 15**

Witness 15 and Steven WALLACE were known to each other and met up at The Mill Night Club, New Plymouth in the early hours of Sunday, 30 April 2000.

Witness 15's statement may be read at **TAB 1**. With regard to meeting WALLACE at the Mill Night Club he records:

*“My full name is Witness 15. I live at [*Deleted] Street, Waitara. My home phone number is [*Deleted]. My date of birth is the [*Deleted]. I am employed by [*Deleted].*

I am making this statement to Detective THORNE about seeing Steven WALLACE in the early hours of Sunday morning, 30th April 2000.

At about 7.45pm on Saturday 29/04/2000 I travelled into town with Witness 16.

*During the night I met with Witness 17 and we were at the Mill, New Plymouth. Also present at the Mill was Witness 16, Witness 17, Witness 18, her boyfriend Witness 19 and [*Deleted].*

Witness 17 and I first saw Steven WALLACE at the Mill at about 2.00am. I did see Steven with a handle of beer in his hand.

We had a quiet beer together and a general chit chat. Steven appeared at that stage to be okay.

Steven was by himself. I saw Steven walking around and talking to other people during the night.

The next time I saw Steven was downstairs at the bar at the Mill. But I didn't talk to him.

I had my last drink at the bar, the bouncer told me the top bar was closed and that we were to exit through the bottom stairs door.

Witness 17, Witness 16 and I found each other and we exited outside.

We walked out the door, we saw Steven standing by himself at the bottom of the stairs.

I asked Steven what he was doing now and he told me he was just going to go home.

I told Steven to look after himself man and he said to me, you too.

Steven then went up the stairs to the verandah and I suppose to his car. I never saw his car. Steven was just fine at that stage. Again, Steven was by himself.

*Then Witness 17, Witness 16, Witness 18, Witness 19, [*Deleted] and I travelled back to Waitara in Witness 16's car which is a [*Deleted] with a [*Deleted] in the front.*

Witness 16 was driving, I was in the middle of the front seat and Witness 17 was on my far left. The rest were in the back seat.

It was about between 3.30am and 3.45am when we were travelling down McLean Street coming from the New Plymouth end that I first saw Steven WALLACE smashing the windows of the Post Shop.

I knew it was Steven by the clothes he was wearing when I saw him at the Mill.

From what I could see he was smashing the windows with what appeared to me as some kind of bat, a baseball bat type, about a metre in length.

He was absolutely going nutty with the bat and smashing the windows.

Our car turned left into Domett Street and it was then that I saw Steven's car parked in front of the doors of Peter Budden Chemist.

Both front doors of his car were open.

When I saw Steven smashing windows I could hear alarms sounding.

When we turned into Domett Street we parked on the road about 15 metres away from Steven's car.

I can also recall Steven going across the road and smashing the window of the sports shop. I'm not absolutely sure whether he broke the windows of the chemist or sports shop first but I did see him on the other side of the road opposite the Post Shop smashing windows with then bat. It was at that stage I can recall him having two items in his hands, a golf in his right and the bat in his left.

When we stopped momentarily on Domett I saw Steve coming over towards us, he broke the windows of the chemist and he then saw us. He was running, sprinting towards us carrying the weapons up in the air in his hands in a threatening manner.

[*Deleted]

Upon seeing this Witness 16 said, "Lets get out of here".

*We then hurriedly drove off, turned the next right which is Bank Street and dropped off [*Deleted], [*Deleted] was pretty wasted, he'd had a few drinks.*

*After dropping off [*Deleted] we turned left into Queen Street, left into Ogle Street, left into Grey Street; went through Grey/McLean Street intersection and stopped opposite the paint shop on Grey Street.*

It was at this stage I saw Steven's car parked straight in facing the paint shop on McLean Street. His car was grey or black Prelude type car, it had a spoiler thing on the boot. I can differently able to recognise his car.

As we were going through the intersection I saw Steven's car and Steven coming across from the area of his car as I was looking towards my right and we were driving through the intersection.

He still had in his hands the golf club and bat. It was in a threatening manner.

I could clearly hear Steven say to a cop, "What are you going to do about".

I heard them because Witness 17 had his window down and the back right passengers window was also down.

It was when I first saw Steven on my right that I then noticed a Police car and a Police person in McLean Street about outside the house on McLean Street which is on the corner of McLean and Grey Street.

When our car stopped I got out of the vehicle. I think we all got out. I just stood on the footpath on Grey Street.

It was then that I heard Steven say, "What the fuck are you going to do about it".

With both weapons up above him still in a threatening manner.

I saw one Policeman practically opposite the carpark on Binn Inn.

That Policeman had his firearm out and pointed straight at Steven.

I saw another person further up the road standing in the middle of the road but I couldn't tell if that person was a Policeman. From where I was I couldn't see if that person had anything in his hand.

I can recall the Policeman closest to me say something to Steven but I can't recall what he said.

When I saw Steven coming from the paint shop he was walking quite staunch.

*Witness 19, who we call [*Deleted], a nickname, said he was going to see what was wrong with Steve.*

We told him no. It was then that the Police Officer told us to fuck off.

I can recall when Steven said about what the fuck are you going to do about, seeing Steven throw the golf club which was in his right hand in the direction of the person who was a bit further down the road.

It was then I heard shots fired. I heard five shots fired.

We then got into our car and drove off.

We drove down Grey Street, turned left into Parris Street, left into Domett Street.

When we got to the Domett/McLean Street intersection I saw Steven on the ground.

He tried to get up. He was lying facing down, slightly arched, knees and legs on the ground and trying to push up with his arms. There were two Police Officers around Steven. We saw another Police car where we stopped on McLean Street.

We then just freaked out and drove off up McLean Street, over the bridge and went to the heights at the Manukorihi lookout.

We looked down from there. We saw more cop cars there. Saw an ambulance arrive, later another ambulance arrived. We stayed looking from the heights for a good hour.

We later all went home.”

8.2 **Witness 20**

Witness 20 is an old school friend who also met WALLACE on Sunday morning, 30 April 2000 at the Mill Night Club. His statement may be read at **TAB 2**, but is reproduced hereunder in full:

*“My full name is Witness 20. I live at [*Deleted], Waitara. My phone number is [*Deleted]. My date of birth is [*Deleted], I am [*Deleted] years of age. I work as a [*Deleted]. The work phone number is [*Deleted].*

I am speaking to Constable ISAACSON in relation to seeing Steven WALLACE at the Mill bar on Saturday night the 29/04/00.

I started school at Waitara Central Primary School when I was in Standard 3. I would have been about 9 or 10 years old.

My family had moved from Tarata to the Waitara area.

I ended up in the same class as Steven WALLACE. I got to know Steven better when we started playing softball. We played in a team together.

We ended up playing softball right up to and into our high school days together and in the same team. We both played in the Taranaki rep team.

I played as 3^d base and base one.

Steven played as short stop.

He always had a bit of a short temp and tended to get off side with some of his close friends. Mostly it was just verbal.

I never got off side with him.

Both Steven and I played rugby through our schooling days at primary school and through to high school.

[*Deleted]

Steven also played league in the under 17s. I also played for a season then gave it up.

I played in the first 15 with Steven in rugby. I played as a flanker, centre of a wing. Steven played as 2nd 5 and centre.

Steven was a good rugby player. Steven had a good attitude as a team member.

I was involved in other sports as well at school but Steven was not involved in them.

During both mine and Steven's sporting days at school I did not notice any major behaviour problems with Steven on the field. Occasionally there was a scuffle that he may have been involved with.

When I left school I had a bad ankle and had to have surgery so haven't played rugby since.

When we left school Steven went to University in Wellington. I think he studied architecture.

When I left school I went into a farm contracting position.

I have met a couple of Steven's sisters, his mother and father.

*I met [*Deleted] and [*Deleted] his sisters and his brother [*Deleted]. I didn't always talk to them but knew who they were.*

Steven's family had quite a big extended family.

*I got on alright with the family [*Deleted].*

After we had both left school, Steven and I didn't have much contact. Only when he came back to town I may have bumped into him at rugby.

In the last couple of years he was here more often. I think he chucked it in at university.

I went overseas to Canada in February 1999 until February 2000.

I think Steven had a drink driving charge and I think he had a scuffle in town one night.

I have been out at after match functions like rugby, softball or a mates place when we have been drinking and Steven was present. He appeared to be a lot mellower since school.

I saw Steven a couple of weeks after I got home from Canada. I was in the Mill bar in New Plymouth. Steven hadn't changed. I didn't talk to him much that time.

Steven consumed cannabis through his late high school years, mostly at parties. I wasn't aware that his mood changed after consuming cannabis.

Steven wasn't always at school regularly, he would just come to school for what he had to do then go.

*On the 29th April 2000 I went to a 21st at [*Deleted]. It was my cousin [*Deleted]. This was at the [*Deleted].*

I went to New Plymouth with a group of people who had been at the 21st. We went to town in a taxi van.

We went to town about 12.30am. We got into town about 1.00am.

*We went straight to the Mill. I had my little brother [*Deleted] with me also.*

*[*Deleted] met some of his friends outside, then we went into the Mill.*

We all stopped and were standing near the toilet area inside the Mill bar.

I then saw Steven walk past me. We got his attention, Steven stopped to talk to us.

I think he was by himself.

*[*Deleted] started talking to him then left with his friends to go and get a drink at the bar.*

I stayed with Steven and talked to him.

We both went and got a drink at the bar.

I got a beer, so did Steven.

Steven said he had to watch the rugby – the Hurricanes, and that was why he was late into town.

We talked about what he was up to.

We talked about golf and said we should go and have a game sometime.

We then walked around the bar, we went downstairs, I lost him for about 15 – 20 minutes.

*I then was talking with [*Deleted] from Waitara, [*Deleted]. Steven came over while we were talking.*

*[*Deleted] then left and Steven and I talked. I told him how I was planning to go to Australia and implied how he should come too. He said he would have to sort out some things first.*

He didn't say what those things were.

We were all still drinking, buying each other drinks – just beer.

We possibly had about 3 – 4 handles and bottles combined. I was with Steven most of the night. We stood talking. We spoke about general things, nothing specific.

Steven's mood was just as I've known him. He seemed relaxed.

We did not dance at all that night.

We left the Mill on closing time. It was the last song. It could have been about 3.15 – 3.20am.

I asked Steven if he needed a ride as we were getting a taxi. He said he was alright, he had his own car. I didn't see his car.

I left Steven by the Mill and told him I'd ring him sometime to catch up.

We walked up to the garage. Steven was left standing out the front of the Mill.

He was still in a good mood.

Steven didn't appear over intoxicated, he could still walk straight and speak clearly.

I don't think Steven had consumed drugs that evening, as his eyes weren't red.

When I left the Mill this was the last I'd seen of Steven.

*Steven used to go out with a [*Deleted] years ago but I don't know of any recent ones – girlfriends.*

At the Mill Steven was wearing a blue V neck shirt. He might have worn jeans.

*The taxi dropped myself, [*Deleted] and [*Deleted] at Lepperton outside the hall where the car was. From there I drove home to Tikorangi. I had dropped [*Deleted] off at his home in Waitara. I got home about 4.00am.*

I have read this statement and it is true and correct to the best of my knowledge."

8.3 **Witness 21**

Witness 21 has known Steven WALLACE since primary school days. She also met up with Steven at The Mill Night Club. Her statement may be read at **TAB 3**, but is reproduced hereunder in full.

*"My full name is Witness 21. I live at [*Deleted], Waitara. I am not on the phone. My date of birth is the [*Deleted]. Up until yesterday I was employed as [*Deleted]. As from today I am currently an unemployed [*Deleted].
[*Deleted]*

I am making this statement to Detective THORNE about seeing Steven WALLACE at the Mill in New Plymouth in the early hours of Sunday morning 30/04/00.

*On Saturday evening 29/04/00 I travelled into New Plymouth. I went with my brother in law [*Deleted], my brother [*Deleted] and my cousin [*Deleted] and [*Deleted].*

*It was [*Deleted] car we went in.*

At about 2.30am – 2.45am I saw Steven WALLACE in the Mill up by the bar at the far left hand corner as you enter from the front entrance.

When I saw him he looked to me as if he was quite bored.

I said hello to him and asked him how he was going. I was too much in a hurry to find my troops because I didn't want to get left behind.

I don't know if he was drinking at the time because he didn't have a drink in his hand.

He was quite chatty to the people he was with at the time. I didn't know why they were but they were laughing a lot.

I can't recall what he was wearing. I was just looking at his face.

I think I left way before Steven did.

*I told my brother [*Deleted] that I had seen Steven. [*Deleted] asked me where but Steven had disappeared.*

Steven appeared to me to be his normal self. I have known Steven since we went to primary school and intermediate together and high school also.

*As for Steven's background I believe he [*Deleted].*

*Steven used to have a girlfriend by the name of [*Deleted].*

*They broke up [*Deleted]. Steven was very shattered by the break up.*

*I don't know where [*Deleted] lives, but she lives in [*Deleted] somewhere.*

That's all I can tell you. As I said before Steven appeared to be all okay when I last spoke to him.

I have read this statement and it is true and correct."

8.4 **Witness 22**

Witness 22 is a [*Deleted] neighbour of the WALLACE family home situated at [*Deleted]. It is this family home at which Steven WALLACE resided at the time of his death.

While reluctant to make a statement to Police, the following job sheet interview, refer **TAB 4** was recorded.

"01/05/2000

1655hrs

Spoke to:

Witness 22

*[*Deleted]*

*[*Deleted]*

*PHH: [*Deleted]*

*I informed Witness 22 that I had been reading a job sheet which related to Steven WALLACE's [*Deleted], [*Deleted], in which he stated there had been a family argument and some members of the house had left the address and that Steven had been extremely upset and he also had departed the address, rather hurriedly.*

Witness 22 then stated the following:

*"I got up out of bed thinking that [*Deleted] were watching a violent movie on TV. This was around 3 am or 10 past 3. I got out of bed in order to growl at them for watching a violent movie. I looked out the window and saw Steven*

hitting their shed with his golf club. He was yelling and swearing at himself. He was saying things like, "Nothing but a bunch of fucking arseholes" and all sorts of other swear words.

There was no one else outside with Steven when I looked out, apart from his mother who was standing at the ranchslider and I could hear her saying, "Calm down Steven, calm down, don't worry about it, come inside".

Then Steven threw the golf club in the boot of his car, hopped in the car and skidded off down the road. He sped down towards Browne Street and then on to Centennial Drive. There's still two holes in the shed from the golf club.

I've known Steven for years. I've never known him to nut off. The Steven I know plays with the children outside – basketball and golf. I've never seen him drink or snap like that before.

After this I went back to bed".

8.5 **Witness 1**

Witness 1 is another neighbour of the WALLACE family who records two distinct incidents occurring within the vicinity of the WALLACE home around 0330 hours on Sunday, 30 April 2000. His statement may be read at **TAB 5**, but is recorded hereunder in full:

*"My full name is Witness 1 and I live at [*Deleted], Waitara. My home phone number is [*Deleted]. My date of birth is [*Deleted]. I am a [*Deleted].*

I am speaking to Detective Constable ASHTON in regard to an incident which occurred on Sunday the 30th of April 2000.

*I live at [*Deleted] with my [*Deleted].*

On Saturday night we went to bed at about 10 or 10.30pm.

We were woken at about 3.40 by the squealing of car tyres.

My clock could be out by about 10 minutes.

I didn't think anything of it till I heard some yelling. I got up and looked out the window.

Our bedroom window faces the WALLACE family home. There is a big tree on our section which blocks out part of the view.

*I saw home members of the family outside their house. I know the sister was there. I'm unsure of her name. She lives there at the WALLACE home. She about [*Deleted] and has [*Deleted].*

There was a group of people but she's the only one I noticed.

They were all standing around taking in a group. I'm unsure how many there were.

I then went back to bed.

About 15 or 20 minutes later I heard a vehicle squeal back up again. I stopped across the road.

I heard a bang like someone hitting something. Then I heard a male voice yell, "Did you hear that" or at least I think that's what he said.

Then he said, "You're nothing but a fucking cunt". Then the car drove off again.

I didn't hear anyone else say anything.

I did hear a baseball bat drop on the concrete driveway. At least it was an aluminium bat. I know this cause I've dropped a few myself.

The second time I stayed in bed. I didn't look out the window.

I can't say it was the same car that came back the second time but it was the same voice I heard the first time.

I went back to sleep and the next I heard about anything was the next day.

"I have read this statement and it is true and correct".

Note: Enquiry has confirmed that Witness 1's clock was telling the correct time on the 30.05.00.

8.6 Witness 23

Witness 23 is a [*Deleted] to Steven WALLACE. She was spoken to at her home by Police at 0640 hours on Sunday, 30 April 2000. Witness 23 has since made a formal statement to Police, refer **TAB 38**. The record of her job sheet interview can be read at **TAB 6** but is recorded hereunder in full:

"0640 hrs Speak with:
 Witness 23
 [*Deleted]
 WAITARA
 PHH [*Deleted]
 OCC [*Deleted]

Advise her of the circumstances of the incident and she states that she wished that she had rung us last night.

States:

*[*Deleted]*

*[*Deleted]*

*When I answered the door [*Deleted] said that Steven had lost it again. She said that he had gone mad.*

I told her to leave him and that he will probably calm down himself.

*[*Deleted] went back around to [*Deleted] place on Broadway to make sure that Steven wasn't hurting his father.*

She came back a while later and said that he was all right and that Steven had left the address.

*I said to [*Deleted] that he has probably gone down the beach to sleep it off.*

When Steven gets like this it's really hard to calm him down. I've tried before.

I didn't see Steven last night at all. He didn't come around to my place.

Mum told me that he had been drinking at home. She said that he had about half a dozen beers that she had seen."

Sergeant O'Keefe, the Officer in Charge of the Waitara Police, also spoke to Witness 23 that morning. He records the following in his statement:

*"Witness 23 said she wished she had phoned us earlier that night as Steven had been nutting off and that her mother and sister [*Deleted] and two children had come to her address at about 3 o'clock that morning after Steven had been nutting off that morning at the Broadway home.*

She asked a lot of questions about why he was shot, how many times of which we could not answer.

She stated three or four more occasions, 'I wish I had called you guys earlier.'"

8.7 **Witness 5**

Witness 5 is [*Deleted]. Like other members of his family, he initially declined to make a formal statement to the Police relating to the events leading up to Steven's death. He subsequently made a formal statement to Police, refer **TAB 35**.

Witness 5 was initially spoken to at his home at 0625 hours on Sunday, 30 April 2000 and the following job sheet, refer **TAB 7**, was recorded:

*"Witness 5 was asked if he knew where [*Deleted] Steven was because Steven's car was in McLean Street and that a person had been shot and is currently in hospital.*

He explained that Steven had been upset during the evening and left the house in a rage at about 2.45am this morning.

*He stated that [*Deleted] [*Deleted], [*Deleted] [*Deleted] and her two children had left the house and gone around to [*Deleted] address on [*Deleted] Street.*

They had left the house due to Steven's behaviour.

*Witness 5 then offered to show us where [*Deleted] lived.*

As we got into the Police four wheel drive we noticed tyre and skid marks on the footpath and grass outside the address."

Sergeant O'KEEFE also spoke to Witness 5 and records the following in his statement:

"Witness 5 stated that these marks were left by Steven when he had left the premises in his car.

*On returning I was directed by Inspector KNOX to go to [*Deleted] Broadway, Waitara and advise them that a person fitting Steven's description was currently at the Taranaki Base Hospital.*

We also went to confirm if he was home or not.

I went with Constable ROSS.

*We knocked on the door and Witness 5, who I know, [*Deleted], answered the door.*

He said, "Hello Robbie".

I asked if I could come in the lounge, which we did.

I asked whether Steven was home.

He said Steven had left from the address in the early hours of the morning and had not returned.

I then asked if there were any other family members at the address.

He replied that there was no one else in the house.

I then said to him a person had been shot in McLean Street, that Steven's car was found on McLean Street and that Steven's wallet had been found in the pocket of the person shot at the hospital.

Witness 5 then became upset. Tears were in his eyes and he said, "Oh no, oh no", or something like that.

*I then asked if he could take us to where [*Deleted] was so we could explain everything to her.*

He could not remember the correct address so I asked if he would come with us and show us.

*We ended up at [*Deleted], Waitara."*

8.8 **Witness 24**

Witness 24 has also known Steven WALLACE since primary school and is the brother of Witness 21 (paragraph 8.3). His statement, refer **TAB 8**, is reproduced in full and provides useful anecdotal information regarding Steven WALLACE's character, particularly following the consumption of alcohol:

*"My full name is Witness 24. I live at [*Deleted], Waitara. My contact phone number [*Deleted]. My date of birth is [*Deleted]. I am employed as [*Deleted]. My work phone no is [*Deleted].*

I am making this statement about my friend Steven WALLACE.

I have known Steven WALLACE all my life (24 years). We went to school together here in Waitara.

Steven was a real intelligent person, he was an awesome sportsman. He represented Taranaki in rugby league. He attended at the University at Wellington as an Architectural Draughtsman. I believe he got his degree. Steve had a black car.

I last saw Steven about three weeks ago at the Mill in New Plymouth. He seemed okay, nothing was bothering him. He was talkative. He gave me a hug because we hadn't seen him for a while. He shook my hand. He had been drinking but he was okay. He was by himself.

*My sister Witness 21 aged [*Deleted] years told me this morning that she had seen Steve in the Mill last night, meaning the early hours of this morning. She lives with me here at [*Deleted].*

She told me she was a bit wary of him because he looked a bit strange.

How I came to ring the Police this morning at about 5.25am was that when we were coming back from New Plymouth by taxi I saw heaps of Police cars go past us.

On arrival home we then dropped off a mate of ours over by the bridge, that being me and Witness 21.

On the way back we stopped because we had seen all the Police cars and the road was blocked off.

*I asked a security guard by the name of [*Deleted], a tall guy who looks after all the shops, what was going on. He told me that someone had been breaking windows.*

*I then asked somebody across the road from [*Deleted] who had just biked off what had happened. They told me that Steven WALLACE had been shot.*

Upon hearing that I went up to Steve's place. I woke his Dad up and asked him where Steve was. His Dad said that Steve had come home but stayed outside the house doing wheelies in Steve's car.

I waited there for a while and then rang the Police on my cellphone and asked what was happening in the incident down town and who was involved.

*[*Deleted].*

I know Steven to have gone off in a full of rage. One particular incident I was told by someone that Steve had taken to a few cars with a golf club, he was smashing the windows of the cars. That was a couple of years ago.

Over the last few years Steve has gone very quiet. He has kept to himself. He wouldn't open up to anybody.

He would go off in a rage and from my observations it was when he had been drinking alcohol.

He would go off in his rage and from my observations it was when he had been drinking alcohol.

But when he wasn't drinking alcohol he was a brilliant person. But when he had been drinking he was scary, nobody could talk to him, he appeared to be in a world of his own.

*As from today I am moving to [*Deleted], Waitara.*

I would like to say again that Steven WALLACE was a really mighty and intelligent person.”

8.9 **Witness 25**

Witness 25 is a neighbour of the Waitara Police Station. It should be noted that her initial timing of 1.30 am is approximately two hours early. Steven WALLACE at that time was at The Mill Night Club and left just after 0300 hours.

Witness 25 made two statements to Police, both of which may be read at **TAB 9**.

The second of these statements is reproduced hereunder:

*“My full name is Witness 25 and I live at [*Deleted] Domett Street, Waitara. My phone number is [*Deleted]. My date of birth is [*Deleted]. I am a [*Deleted].*

I am speaking to Detective Constable ASHTON in regard to an incident which occurred on 30/05/00.

*I live at Domett Street [*Deleted].*

*I had been at the Fire Station for a wedding reception. The wedding was for [*Deleted] and [*Deleted].*

I left there at 9.30pm and walked home here to pick up my Cashflow card. I then walked to the TSB Cashflow machine through the alleyway behind my address.

Once I got my money I went to the RSA as a friend of mine was having a 50th there. I didn't actually go for the 50th but to catch up with some friends who were there.

I then left at around 12.30pm and I remember walking in my door at 12.45pm. I remember looking at my watch when I came in. I then checked the doors and closed the curtains and it would have been about 1.00pm when I hopped into bed.

I think I went straight to sleep.

Then there was this terrific noise. My bedroom window faces Domett Street. I think the noise that woke me was this guy thumping on the Police Station door.

I got up and looked out my curtains. I did not turn the light on. I didn't look at the time.

When I looked out I saw a male facing the Police Station door pounding on it with his hand. He was really pounding it. He then started moving along to the right of the building towards the back.

When he disappeared around the side of the building I started hearing the breaking of glass.

He would have been around there for about 5 minutes.

I then saw him come across the road and pick up a pallet. He carried it back and threw it at the windows and door. I heard smashing glass again when he threw it at the windows.

His car was parked the whole time with its lights on and the radio on. All I could hear was this thump thump music coming from the car. I couldn't hear any words from the music.

The vehicle was parked up close to the Police Station near the white fence end which is to the left of the building. It was facing the Paris Street way.

I could hear him yelling abuse as well. I think I heard him say, "You pigs" or something like that.

This carried on for about 10 or 15 minutes. Then he hopped in his car and turned left into Domett Street and then drove to the intersection of McLean and Domett and turned left towards the Post Office.

His vehicle was a dark colour but I couldn't see the exact colour as it was too dark. I don't know what the make was either.

I went back to bed but I did not look at the time.

Then about 10 minutes later he came back. He parked the car in about the same place. I didn't hear any music again this time. When I looked he was pounding on the door again and I could hear the smashing of glass again.

He was only there about five minutes this time. Then he hopped in his car and drove in the same direction as before. I saw him turn into McLean Street.

While the guy was standing at the front door I saw a young guy travel on a skateboard across Domett Street and into the driveway of the Police Station. He seemed to appear from nowhere. I presume he came out of the alleyway by the hall.

I never saw him make a conversation with the guy doing all the banging and smashing.

I never saw him come back out again until the Police car arrived.

The guy on the skateboard had a beanie on. He was skinny and not that tall. I couldn't tell what Race he was. I think he had on some baggy Cargo pants. He was wearing a jersey.

After I saw the vehicle go out onto McLean Street I went back to bed again.

I'd been in bed about 10 minutes when I heard vehicles travelling along Domett Street really quickly. I got up again and looked out the window.

I saw a Police car go straight down Domett Street and turn left into McLean Street.

Then I saw a second Police car come along Domett Street and straight up the curb and went behind the Police Station.

Just before the Police car turned into the drive I saw the young boy on the skateboard again. He went behind the Police Station. I thought the Police car was chasing him.

The Police car drove right into the yard of Police Station.

I went back to bed again. I don't know the time. I just got into bed and I heard three bangs. They were one after the other. There was no gap.

So then I came out into my lounge and looked down the road. I looked out from my window on the side of my house.

All I saw was a Police car stopped in the middle of the road on McLean Street. The indicator lights were flashing on it. The red and blue light were on but not flashing.

I thought what's going on now.

That's all I said. Then I went back to bed again.

Then I got up at about 6.00am to go to the toilet. I looked out my bedroom and saw all the Police tape around the Police Station.

Then I went back to bed again and got woken up at about a quarter to nine by a friend wanting to know what was going on.

From when I made my first Statement I think I've got all my times wrong. Other than that there's not much change that I know of.

When the guy was smashing the glass I couldn't see anything in his hands. The whole Station was in total darkness. He was standing on the concrete. He wasn't in the garden or anything.

I have read this statement. This is correct."

While this witness believes Steven WALLACE made two separate visits and attacked the Police Station, she appears to be mistaken about the second visit.

To assist the reader, it is believed that after the attack on the Police Station, Steven WALLACE has left the Police Station and returned to his home. This is consistent with the account of Witness 1 (para. 8.5). It is then reconstructed that WALLACE has again left the family home and then been observed by the following witnesses:

8.10 **Witness 26**

Witness 26 and a friend Witness 27 had just returned home from a party and were on foot when, at about 0330 hours on Sunday 30 April 2000, they observed WALLACE driving past at speed.

Witness 26's statement, refer **TAB 10**, is also produced in full:

*"My full name is Witness 26. I was born on the [*Deleted] at [*Deleted]. Presently I am living at [*Deleted], New Plymouth. My mobile phone number is [*Deleted]. I am a [*Deleted] studying [*Deleted].*

I am speaking to Constable ROSS of the Waitara Police about an incident which occurred in Waitara during the early hours of this morning.

At about 3.30am this morning myself and a friend of mine Witness 27 arrived back at his home address. We had been out for the night in New Plymouth. I

had been drinking but I was not intoxicated. I would estimate that I would have had about four to five beers during the course of the evening. I actually stopped drinking at about 2.00am.

I heard a car coming up the road from direction of the sea. I think it turned onto Gray Street from the next street back towards the sea.

What made me stop to have a look was that it sounded like the car was going quite fast. It skidded around the corner onto Grey Street.

At this time Witness 27 and I were standing by the front door of his place. We saw the car go past, it was going really fast. We listened to hear if it was going to slow down at the intersection of the next street towards town. I think it's High Street. The car didn't slow down at all and just kept accelerating as it travelled up the road towards town.

We were wondering how he was going to get around the corner by the fire station. The next thing we heard was a bang as if he had hit something. I thought he had gone straight through the fence instead of going around the corner.

Witness 27 and I decided to go up the road and have a look and see what had happened. At first we started to walk up the road and then we decided to jog because we thought the person in the car may have been injured.

As we were jogging up the road we heard banging. It sounded like they were using a stick or pole to smash car windows. As we got nearer to the fire station we heard a car going or leaving from that area. It sounded like it had a flat tyre. Actually it sounded like all the tyres were flat. You could hear the tyre flapping. The car drove off towards New World.

At that time we would have been about 100 metres from the fire station.

I heard the car stop again and I would estimate that it would have been around the New World supermarket when it stopped. Then there was some more banging. I thought they, whoever it was, was trying to destroy the car because it was stolen. At this time we were standing on the corner by the fire station.

The banging sounded like windows smashing. I looked at the rails on the side of the road by the fire station and they didn't look damaged so I was wondering what the bang was that we had heard.

The banging then stopped and I thought that the car had been abandoned. About a minute after the banging stopped I heard the car move off again. It sounded like it was heading towards the roundabout on the main street. I could still hear the tyres flapping.

As we looked over towards McLean Street I saw this car with the flat tyres go along McLean Street towards New Plymouth. I would estimate the car was travelling at about 40 km/hr. There was another dark coloured car behind it.

The car with the flat tyres was a dark coloured car also but I couldn't tell what kind of car it was.

I heard the car stop and then there was some more banging which sounded like windows being broken again.

At this stage I heard voices from that direction. It sounded like it was around the Real Estate agents on the corner.

I couldn't hear what the voices were saying to start with but then I heard some swearing which was loud and clear.

The voice was of a male and he said, "Fuck you I'm going to fuck you up". At that time I heard a gunshot. It was a single gunshot and then a pause. I would estimate that the pause would have been about 2 to 3 seconds. I didn't hear any speaking during the pause. Straight after the pause I heard 3 shots which followed each other.

It sounded like a semi automatic gun to me. I thought this because of the speed of the shots.

I grabbed my cellphone and rang 111.

The operator answered and I told her that there was a situation in Waitara. She told me we are dealing with it right now.

After the gunshots I heard a car door slam and saw a dark coloured car go along the street and turn left into Parris Street.

At the same time there was a car parked in McLean Street.

The car was parked on McLean Street on an angle and it had its headlights shining on the LJ Hooker building.

Witness 27 and I then walked off home. We didn't go up to McLean Street at all.

I've read the statement and it is true and correct."

8.11 **Witness 27**

Witness 27 was in the company of the previous Witness 26 and records the following in his statement, refer **TAB 11**:

*"My full name is Witness 27. I was born on the [*Deleted] at Waitara. I currently live at [*Deleted], Waitara. My telephone number is [*Deleted] at home and [*Deleted] at work. I work as a [*Deleted].*

I am speaking to Constable ROSS of the Waitara Police about an incident that occurred at Waitara during the early hours of this morning.

I came home this morning at about 3.30am to 4.00am with a friend of mine Witness 26. I'm not sure exactly what the time was as I didn't look at my watch.

As we were by the front door I heard a car coming down Centennial Ave. It seemed to be going really fast. I looked out towards the road. I saw the car drive past. I would estimate that he would have been travelling over 100 km/hour. The car went straight through the intersection of High Street and Grey Street, without slowing down at all.

The car continued up Grey Street and it sounded like it was still winding up. I then heard the car skid and a bang. The skidding sounded like the car locked his brakes up.

At this point myself and Witness 26 started to walk up Grey Street towards the Fire Station. We started hearing sounds like glass smashing so we

[*Deleted]

started running up the road because we thought he was doing something to the car.

By the time we got to the Fire Station there was nobody there. We actually heard the car drive away. It sounded like the car had a flat tyre. I could hear the tyre flapping as the car drove off. The car headed off over the railway lines towards the New World Supermarket.

I kept hearing glass smashing and then I heard a shop burglar alarm going off.

The glass smashing noise was coming from the McLean Street area.

At this time Witness 26 and I were standing outside the Fire Station.

I saw a white car pull up on the corner of McLean Street and Grey Street. Between Bin Inn and LJ Hookers.

The white car had its lights on and I noticed that the drivers door was open. I then heard someone say, "I'm going to fuck you up". It was a male voice and they sounded angry.

A few seconds later I heard a gunshot and then after a couple more seconds I heard four more gunshots. The shots were one after another. It sounded like an automatic gun.

As this was happening I did hear a couple of other voices but I couldn't hear what they were saying.

After that I saw a black car head down Grey Street and turn left into Paris Street towards the bridge. This car took off in a hurry.

Straight away after the gun shots Witness 26 rang the Police on his cellphone.

They told Witness 26 that they were dealing with it so we just walked home.

I've read this statement. It is true and correct.

8.12 **Witness 28**

Witness 28 is a local taxi driver who narrowly avoided a collision with WALLACE's vehicle and later came under attack when WALLACE smashed one of the taxi windows with a baseball bat.

Witness 28's statement, refer **TAB 12**, is recorded hereunder:

*"My name is Witness 28. I live at [*Deleted], New Plymouth. My phone number is [*Deleted] or [*Deleted]. My date of birth is [*Deleted]. I work as a taxi driver for [*Deleted]. I am also a self employed [*Deleted].*

I am making a statement to Constable ISAACSON in relation to damage done to a taxi that I was driving whilst in Waitara in the early hours of the morning of the 30/04/00.

*I started work as a cab driver at 5.00pm on the 29.04/00. I was designated to work in the Toyota Camry, registration [*Deleted].*

[*Deleted]

*I have driven for [*Deleted] since November 1999. Prior to this I worked for [*Deleted] in New Plymouth. I worked for them for about 6 – 8 months.*

I was designated to work until 5.00am on the 30/04/00.

*At about 3.45am I picked up a fare from Shell Courtenay and I was to take them to [*Deleted] in Waitara. It was a male and a female.*

I drove into Waitara via Nelson and McLean. The passenger wanted to stop at the TSB money machine on the corner of McLean and Queen but instead he asked me to stop at the Caltex Station on McLean Street in Waitara so he could get a feed.

We were stopped at the Caltex for about 5 minutes. I had pulled right up into the forecourt of the service station.

At this stage I was not aware of any other persons around Waitara.

*The passenger then got in the cab and we headed off to the final destination, [*Deleted], Waitara.*

There still was not anything about.

As I neared the roundabout on Queen and McLean Streets a black car came flying around the roundabout from Queen Street on my left and he had cut around the inside of the roundabout and was on my side of the road. He was going at a great rate of knots.

The car appeared to have a flat tyre on the left front hand side. It was making a hell of a noise. It was like a flapping noise.

I took evasive action and headed towards the gutter to avoid a head on accident.

The passengers made a comment about 'look at that blood idiot'.

The cab was not hit by the black car at this point.

I did not stop and carried on around the roundabout into the river side of Queen Street. The offending car had come from the sea side of Queen Street.

As I got to the roundabout I saw the same black car as I had seen earlier nosed into the doors of the chemist that was about a block away from the roundabout.

I continued driving down McLean Street, my first thoughts were that he was using the lights of the chemist to change the tyre on his vehicle.

The person was at the boot of the car, the boot lid was up. He was bent over at his boot looking into it.

When I got to Domett Street intersection the person at the car stood up.

As I got parallel to him and his car he was running across the road towards my vehicle.

I was travelling at between 40 – 50 km. I had not slowed to see what he was up too.

He was holding a baseball bat in his right hand, he held it at the thin end, it was at his side.

He also held a golf club, that's what it looked like in any case, he held this in his left arm across his body.

He looked really angry and pissed off.

When he got closer to the vehicle he raised the baseball bat, as he started to swing the bat, I planted my foot and sped up to try and avoid him. I am sure he was going for my front windscreen but due to me speeding up the bat connected with and smashed passenger rear window on the drivers side.

The glass shattered through the vehicle and over me.

I didn't hear him say anything to me.

At the point the cab was hit by the offender I was in my lane and just past the pedestrian crossing.

I then went straight to the Caltex Service Station in Waitara on McLean Street, to ask the forecourt attendant to ring Police.

The forecourt attendant told me Police had been notified, as a person on a push bike had nearly been run down by the same car.

I had seen the person on the bike leaving the forecourt of the service station when I was first there with my passengers.

I then notified my boss of what had happened and she instructed me to stay where I was. I then remained at the service station.

The forecourt attendant and myself were watching down the road at what was happening.

I couldn't really see much because of the darkness of the street.

*I saw flashing lights of one car – Police car at one end of the block and flashing lights of another car at the other end of the block.
The block I'm referring to is from Domett Street to Gray Street on McLean Street.*

I couldn't tell how many people were present at the area.

I wasn't aware of any other onlookers, at this stage.

As myself and the attendant turned to walk back onto the forecourt I heard what appeared to be 6 gunshots.

I waited for about 2 – 3 minutes, I saw the ambulance come in and another Police vehicle, so I moved the taxi cab down the street towards the area that Police were in.

I parked on the left hand side of the road near Gray Street and on McLean near Bin Inn. I was parked directly across from the black car, which had been moved up McLean Street and outside a paint and wallpaper shop.

At this stage I spoke with Police and was aware there were other onlookers.

The description of the offender was male, with olive skinned Maori, well built, athletic build, about the height of my partner 5'2". I can't recall what he was wearing.

He was not with anyone else.

As I was sitting at the service station waiting for Police I could hear loud music playing in his car and I could hear the words. It was about "killing this and killing that".

His vehicle was actually still running when he left it and the Police turned it off. The person who did this was the last car into the scene before Constable ISSACSON turned up.

*I am not aware of the cost of the cab window to repair. [*Deleted] will know.*

I have read this statement and it is true and correct to the best of my knowledge."

8.13 **Witness 29**

Witness 29 is a [*Deleted] who witnessed a series of events involving Steven WALLACE in the early hours of Sunday, 30 April 2000. His statement, refer **TAB 13**, is reproduced in part hereunder:

*"My full name is Witness 29 and I am [*Deleted] years of age. I was born on [*Deleted].*

*I live at [*Deleted] in Waitara [*Deleted].*

*My phone number is [*Deleted].*

*[*Deleted]*

*[*Deleted]*

I work 7 nights a week from midnight until 7am.

Last Saturday night Sunday morning I started work at midnight.

This was Sunday the 30th day of April 2000.

*[*Deleted]*

*[*Deleted]*

There was a few young kids out, they were drinking and some were drunk but they were well behaved.

*At about 2.45am I was [*Deleted] down McLean toward Queen Street when I saw three young females walking down Domett Street towards McLean Street.*

They wee giggling and had already past the Police Station.

I went around the Queen Street roundabout and headed back towards the Caltex garage. It is a 24 hour garage. It is the only 24 hour garage in Waitara.

I got as far as the secondhand shop on the corner of McLean and Domett Street when a black car came up behind me.

*I was [*Deleted] on the left hand side of the road and I was right in by the kerb or gutter.*

I heard the car first because its engine was revving up.

It was going so fast I never even got its registration number as it past me.

The car came right at me and then pulled away into the middle of the road.

I stopped dead in my tracks and I was shaking.

I could not tell how many people were in the car.

The car was a black late model car, that's all I know.

As far as I know there was nothing wrong with the car.

I heard some thumping coming from the car which might have been a boom box, a loud car stereo.

The rest of town was quiet and there was no one else out.

The car got about 3 metres away from me before it swerved away.

It had its lights on.

The car turned off McLean Street into Brown Street on the BP garage side of the road.

It took the corner very fast.

The car headed up Brown Street.

By the time I got to Brown Street it had disappeared.

*I [*Deleted] straight up to the Caltex garage and told the attendant there that I had nearly been knocked down by a late model black car.*

*The attended I spoke to was a guy called [*Deleted]. His name is [*Deleted].*

He works night shift there and is on for the next two weeks.

I got such a fright and I was as white as a sheet.

I was at the garage for about 5 minutes.

I then went back out on patrol to see if I could locate this car and get its registration number.

I continued down through town and went and checked the RSA club on Queen Street.

When I was at the RSA I heard a banging sound coming from the direction of Domett Street.

*So I went to Paris Street and [*Deleted] towards Domett Street.*

When I got to Domett Street and the Paris Street corner I saw a guy out the front of the Police Station.

I thought he was ripping out the Police phone outside the Police station door.

I don't know how far I was away.

It was kind of dim and I couldn't see very well.

He was wearing dark clothing that was all I could tell.

He was yelling and getting abusive, he wasn't making sense.

I couldn't hear any of the words.

*I [*Deleted] to the corner of Grey Street and Parris Streets and rang 111 for the Police.*

I told them there was a guy at the Police Station on Domett Street trying to destroy the phone box and could they send someone out.

I went down Grey Street and turned right into McLean Street to see if I could still observe this guy.

As I got to the corner of Grey Street and McLean Street I heard the audible alarm at New World go off.

New World is on Queen Street. I know their alarm and which direction it comes from.

*I [*Deleted] fast around McLean Street to Whittaker Street until I could see the New World building.*

I could see the outside sensor alarm light was flashing.

I then rang the Police on 111 again and told them the New World alarm was going off.

I couldn't see anybody there but I could see broken glass all the way along the front of the New World windows.

I told the Police this and they told me to stay put until a keyholder arrives.

I could hear smashing glass on McLean Street while I was watching the New World building.

I couldn't hear any cars.

*The keyholder [*Deleted], arrived about 10 minutes later.*

*Then Witness 14 the owner of [*Deleted] drove around and told [*Deleted] and I that a young man is going berserk in the main street smashing windows.*

I had heard some noises that sounded like fireworks.

They seemed to be in succession, like those tom thumb crackers. One after the other.

*Witness 14 told [*Deleted] and I that he had been shot by the Police.*

I didn't believe him because something like this doesn't happen in Waitara.

Witness 14 was angry and said why can the Police do this, he hasn't got any weapons.

*Witness 14 told [*Deleted] to go and have a look.*

I stayed where I was until the Police arrived.

*Then I got a phone call back from the Police from a lady named [*Deleted] who told you that the Police were now in Waitara and asked where I was.*

I told her I was still outside New World waiting for the Police.

*I left New World before the Police arrived and [*Deleted] to Harcourts corner.*

This is on the corner of Queen and McLean Street.

*I then saw [*Deleted] coming around the roundabout in his ute so I stopped him.*

He told me that he had a report that his windows had been smashed in.

So I stayed right by the roundabout on the corner of Queen and McLean Streets from about 4.15am until 6am.

While I was there I could see a car which had come and parked outside Hammer Hardware.

He arrived at about 4.20am.

*It was a [*Deleted]. The registration number was [*Deleted].*

There was only one Maori person in it. He was in his thirties.

He had tattoos all over his face.

*Then [*Deleted] arrived and as he did the guy in the car drove off towards Queen Street and drove past New World.*

*[*Deleted] told me to get his registration number but I already had it.*

Then about 20 minutes later this guy came back down Queen Street, turned onto McLean Street and went over the bridge.

At one stage Maori guy in the car got out and came over to me and asked me what was happening.

I told him, just a few windows have been smashed.

I went home at about 6.30am. Then I went around to my sisters and had a sleep until Sgt Robbie O'Keefe rang me up.

He came and saw me.

I didn't recognise the guy who was smashing the windows.

8.14 **Witness 30**

Witness 30 is a neighbour of the Waitara Police Station who witnessed the attacks by Steven WALLACE on the Police Station.

Witness 30's statement, refer **TAB 14**, is reproduced as follows:

Witness 30 states:

*That is my full name. I live at [*Deleted] Domett Street, Waitara, phone [*Deleted].*

*I am [*Deleted] years of age, born [*Deleted].*

*I work at [*Deleted].*

I am speaking to Detective Pat TUNLEY of the Hawera Police about the incident in Waitara yesterday morning.

Yesterday morning at about quarter to four I woke hearing the smashing of glass.

I lay there for a while to register what it was.

I heard more smashes. It sounded like someone was taking to a car. There was smashing and that thudding noises.

I saw the time on the alarm clock in my bedroom.

I got out of bed and looked out onto Domett Street from my bedroom window.

I could still hear noises but I couldn't see anyone.

I saw a car parked at the Waitara Police Station.

It was up on the pavement where there is a turning point out front of the Station.

It was facing up the street towards my home.

It's headlights were on. I cannot be sure if there was a door open on it.

I could not see anyone in the car.

Someone then appeared.

I couldn't see where he came from.

He came from the rear of the car.

I couldn't tell if he came around from the back of the Police Station or from the road.

[*Deleted]

I saw something in his hand and he began to smash the windows on the front of the station.

What he was holding was long and thin and what I thought looked like a broom handle.

He would have hit the windows 3 or 4 times before I decided to get the phone.

The phone was in a passageway near the back of my house.

I went and got it along with a piece of paper and a pen.

By the time I got back the car and person were gone.

I could tell the car was a darkish colour but not make or model.

It didn't look like an old dunga, it looked fairly reasonable.

The person was on the other side of the car and the car lights made it difficult to see.

I could tell he was a reasonable height, not short, but I couldn't tell you what he was wearing or any other description.

I then weighed up whether I should call the Police or not.

*After about 2 or 3 minutes I guess a [*Deleted] showed up.*

*It was dark in colour I think. I thought it was Constable A. I know Constable [*Deleted].*

The vehicle shone its lights on the front of the station. It then went up the side drive, to the back.

*I kept watching. The [*Deleted] came out again and turned toward McLean Street and headed up that way.*

At about that time I started hearing further sounds that sounded like glass breaking and lots of it.

I hopped in bed for a couple of minutes.

After hearing the sounds though I thought I'd better call the Police.

I looked out again and I saw a patrol car pull up outside the Police Station.

A person got out, I would say a male. He had on blue jeans and a black woollen jersey.

The person ran up the back of the station. The person got out of the passenger side.

The Police car then went up the street and came back down what appeared about 3 or 4 times.

The Police car then went up the gutter in front of the station.

The person came out of the Station and got in again. They took off up the main street.

[*Deleted]

It only seemed like a couple of minutes.

I could hear smashing still.

Then I heard quick noises which I automatically thought were gun shots.

I thought there were six shots and they were very quick.

I didn't know quite what had happened then. I went and turned my alarm on.

I went in my bedroom and locked the door.

I looked out and couldn't see anything.

I got back into bed.

I may have gone to sleep but I can then remember hearing cars coming by and slowing down at the Police Station.

I got up about 6.30 probably.

After I got into bed after the shots I did hear more smashing but not like the banging kind, but what I thought might be glass falling out.

When I got up I could see there were 5 or 6 Police cars at the Station.

I could see the smashed windows at the Station.

The tape was then put across the street."

8.15 **Witness 31**

Witness 31, a neighbour of the Waitara Police Station, also witnessed the attacks on the Police Station. In his statement, refer **TAB 15**, he records:

*"My full name is Witness 31. I live [*Deleted] Domett Street, Waitara, ph [*Deleted]. I am [*Deleted] yrs old, born [*Deleted]. [*Deleted]. I have been known as [*Deleted] ever since I was born.*

I am making this statement to S/Constable BROADMORE about an incident that occurred here earlier this morning.

At about 4am – 4.30am this morning I was sound asleep but was woken by the sound of smashing glass and loud swearing and abusing. I am not sure of the exact time. To start I thought it was my place being smashed. The smashing glass and abusing was coming from the front (Domett Street). The abusing and swearing I heard was, "Where are you, fucking bastards, come out here". Those were the only specific words I heard but the general abuse and swearing would have gone on for about 10 minutes. All of this time there was glass smashing as well. It was making a hell of a noise.

Straight after the commotion started I got up to see what was going on. All I could see were the headlights of a car which was parked right against the Police Station building which is next door to me on the McLean Street side. The headlights of the car were facing towards Parris Street. The whole time I didn't see any people. It was just the one voice doing all the yelling.

I would have rung the Police about 2 minutes after it started. After I got up and looked from my bedroom I could see that the damage was being done to the Police Station. I didn't leave my house till about ¾ hour later, after I heard the shooting.

About 2 minutes after I rang the Police the first time the car took off at about 100 miles per hour. It did a U turn and headed back towards McLean Street (Main Street). The tyres didn't screech as it turned but it's a wonder as it left in a hell of a hurry.

A very short time later I heard more glass smashing towards the centre of town. That was when I again rang the Police and told them and they basically said righto and hung up. The male operator recognised it was me calling again.

It's hard to tell the time lapse but about 5 – 10 minutes after my second phone call a Police car went past from Parris Street direction, down Domett Street towards McLean Street. It was going medium speed and didn't have the blue and red lights flashing. A few moments later it came back and stopped at the Police Station. It was only at the Police Station for 1 or 2 minutes and then went back down to Domett Street/McLean Street corner. I didn't see how many were in the Police car.

Approximately 3 or 4 minutes later I heard three shots fired in quick succession, one after another. It was definitely three shots and came from the direction where the Police car was. I didn't see where the Police car was parked. I was in the kitchen which is at the back of the house when the shots were fired.

After the shots were fired I went out to the gate for 10 minutes or more and just looked down towards the main street. I could see a few local people and what looked like a lady Police Officer stopping people.

I then came back inside, put my shoes on and walked up to the corner of McLean and Domett Street.

When I got to the corner the ambulance was there and a bloke was lying on the road not quite in the middle of McLean Street, more or less outside the Sports Shop. He was moaning and groaning to start with and then the ambulance staff put him in the ambulance.

I said gidday to Constable B, and Sgt O'KEEFE. I also saw Constable A.

When I was down at the corner I saw a dark car parked outside Major Decorators Paint Shop. I am pretty sure that is the one that took off from the Police Station earlier.

At the time this happened I was extremely frightened and I'm still very upset. I have friends and family who I can call and I don't require victim support.

I have read this and it is true."

8.16 **Witness 32**

Witness 32 is also a neighbour of the Waitara Police Station who witnessed the attacks on the police station. In his statement, refer **TAB 16**, he records:

*"My full name is Witness 32. I am [*Deleted] years old, born [*Deleted]. I live at [*Deleted] Domett Street, Waitara, ph [*Deleted]. [*Deleted].*

I am making this statement to S/Constable BROADMORE about an incident that happened earlier this morning.

At about ¼ to 4 this morning I was awakened by crashing and banging from the area of the Police Station which is across the road and down towards McLean by three houses. I glanced at the wall clock and it was ¼ to 4. There was also a lot of shouting going on as well as smashing glass.

*I got up and went out to the trellis on my front lawn to see what was going on. My daughter [*Deleted] [*Deleted] came out soon after and joined me.*

I could see a car parked up against the Police Station, between the footpath and the building, where they usually park. Its headlights were on and it was facing towards Parris Street.

I saw a person (couldn't see sex or race) jump into the car. I'm not sure which door, and the car did a U turn and sped off fairly fast towards Peter Buddens the Chemist. My daughter and I both ducked down when it took off.

The car stopped near Peter Buddens in McLean Street and there was more smashing of glass.

I came back inside to get my slippers and dressing gown. When I went back outside there were Police cars going up and down Domett Street. I stayed at the trellis in my front yard.

I saw a Police car parked on McLean Street facing towards New Plymouth at the intersection of Domett Street. I heard smashing glass and the Police car reversed rapidly back down McLean Street. I didn't see anyone but got the impression the Police car was being attacked.

Straight after this a Police car sped in behind the Police Station and a short time later sped out again and down towards McLean Street. I can't recall where this car went when it got to McLean Street.

Then there was a lot of yelling and shouting and then some shots rang out. I recall about five shots being fired. They were fairly rapid but I can't remember exactly how far apart they were.

*My daughter and I then walked down to have a look. There was a man lying on the road in McLean Street just about outside Peter Buddens. The Police car was diagonally parked across the intersection with the lights flashing and the engine running. A Police woman came and spoke to us and told us not to go too near. A few more members of the public arrived, Witness 14, [*Deleted] and Witness 6.*

The ambulance arrived and worked on this bloke and then took him away.

My daughter and I then came home and had a cup of tea. On the way back we spoke to a Policeman who took our details.

I was pretty shaken by the whole thing.

I have read this and it is true."

8.17 **Witness 33**

Witness 33 is the daughter of the previous witness. In her statement, refer **TAB 17**, she records:

*"My full name is Witness 33. I am [*Deleted] years old, born [*Deleted]. I live at [*Deleted] Domett Street, Waitara, phone [*Deleted]. [*Deleted].*

I am making this statement to S/Constable BROADMORE about an incident that happened early this morning.

I was woken up by yelling and glass breaking. It was in the early hours of the morning. I looked out the window (my bedroom window) which faces onto Domett Street. I couldn't see anything so I went to my parents' bedroom which also faces onto Domett Street. I noticed Dad wasn't in bed so guessed he had gone outside so I also went outside.

*Dad was standing by the [*Deleted] so I stood with him. That was in our front yard.*

I saw what looked like a black car parked right outside the Police Station between the footpath and the building. The headlights were on and the car radio was going. It was facing towards Parris Street.

I saw a male person throwing things at the Police Station out the front and windows smashing. He was yelling most of the time. Quite a few times he would stop, go across the road to the area of the empty section and then go charging back again. At one stage he went around the corner of the Police Station and I could hear more breaking glass and yelling.

He then jumped in his car, did a U turn and drove down towards McLean Street. A short time later he returned and parked the same way as before. He started smashing windows again. This whole incident lasted about 10 minutes.

The second time he drove off I can't exactly recall seeing him go but saw him stopping right outside Peter BUDDONS. I thought he was going to drive straight through the front door, but he stopped just in time. At that stage I was walking down towards McLean Street. Dad was still at our place.

A Police car pulled up facing but at an angle to his car. The Police car only seemed to be a few feet from his car. I saw him get out of his car and saw him start to attack the Police car. I didn't see what or if he had anything in his hands but the Police car quickly backed away.

Things happened so quickly I can't remember exactly where I was when different things occurred.

I remember seeing what looked like a new red coloured wagon drive in behind the Police Station and then come out again a short time later. I didn't see where it went after it came out.

Sometime after that a Police car went in behind the Police Station and then came out again and went towards McLean Street.

A short time after the Police car went down to McLean Street I heard a person call out. I didn't hear the actual words but got the strong feeling it was to stop and give themselves up.

I then heard one gunshot, then there was a pause, and then three or four gunshots in quick succession.

At that stage I went down town with my coat on. When I heard the call to stop and the gun shots I am certain I was at our place.

Across the intersection I saw Witness 14, so I went to stand with him. The Police car was in the middle of the road. There was a man lying in McLean Street outside about the Pro Sports shop.

I heard the man who was lying on the ground call out 'Frank'. He was lying there for about 10 minutes before anyone tended to him.

I was there when the ambulance arrived and worked on him. There were two ambulances and heaps of cop cars.

I stayed there for a while after the ambulance went and then walked home.

At some stage before the shooting I saw someone run behind the Police Station. I'm not sure if it was the same man or if the car was parked outside at the time.

I have read this and it is true."

8.18 **Witness 19**

Witness 19 has known Steven WALLACE since primary school and met up with him at The Mill Night Club in the early hours of Sunday, 30 April 2000. Witness 19 later hitched a ride home in Witness 16's [*Deleted] and witnessed WALLACE smashing windows in Waitara on their return to the township.

In his statement, refer **TAB 18**, Witness 19 records:

*"My full name is Witness 19 and I am [*Deleted] years of age.*

*I was born on the [*Deleted] of [*Deleted]. I live at [*Deleted] in Waitara. I don't have a phone here but my cellphone number is [*Deleted].*

*[*Deleted].*

*[*Deleted].*

I am speaking to Detective Constable Chris McRAE about last Saturday night.

I went to Primary School when Steven WALLACE was there.

When I was at High School he was a couple of years ahead of me there.

I have known him well all my life as he lived around the corner from my mum's place.

I went into New Plymouth at about 7pm or 7.30pm on Saturday night the 29th of April 2000.

*I went with some mates [*Deleted] and [*Deleted].*

*[*Deleted] is from Waitara and [*Deleted] is from Australia. [*Deleted] knows Steven I think.*

*We went to [*Deleted] brother's place to feed his dogs. We had a couple of beers there before leaving.*

*We were in [*Deleted] brother's car. We drove to the Icons Bar and went inside.*

We all had a few drinks. We were there playing pool for a couple of hours.

*We had planned to meet [*Deleted] at the Icons Bar.*

I don't know him by any other name. He lives in Australia and has gone back.

*About 10 or 11pm my girlfriend Witness 18 [*Deleted] and [*Deleted] turned up at the Icon Bar. A girl [*Deleted] also turned up but she and [*Deleted] left as soon as they arrived.*

We all went to the Salvation Bar in town next and stayed for about half an hour.

Then we went to The Mill from there. We were all walking.

*[*Deleted] got me a beer at The Mill.*

I haven't seen Steven WALLACE for more than a year.

Some time before The Mill closed, close to 2 o'clock in the morning, I was outside trying to get a ride home.

I saw Steven outside and asked him, "How's it going?"

He said he was sweet. I did not see him drinking.

He looked happy and I couldn't tell if he had been drinking.

I only spoke to him for less than 30 seconds.

It took a while to get a ride home.

*I got a ride home with Witness 16 in his [*Deleted].*

*In the front seat there was Witness 16 (driving), Witness 15, Witness 18's brother Witness 17, in the back there was me, [*Deleted] and then Witness 18.*

We all live in Waitara I think so we came straight out to Waitara.

We were driving down the main street of Waitara and I said the town was pretty dead.

*[*Deleted] was asleep on my shoulder.*

We drove through town and outside Peter Budden's Chemist Shop we all saw Steven WALLACE's car parked up on the footpath facing the front doors of the pharmacy.

Both his doors (front) were open. I couldn't see where he was.

*We drove left onto Domett Street and went and dropped [*Deleted] off at his house on Banks Street.*

I said to him that Steven's round there and it looks like he's doing a smash and grab. I said, "You might want to go and have a look at what's happening".

As soon as I jumped back in the car I think I heard Witness 17 and Witness 16 say they had seen Steven.

They said he had a baseball bat and was holding it up.

Witness 17 said he saw Steven lining up the Night and Day Card machine with the baseball bat.

We went back towards McLean Street and went around the roundabout onto McLean to head back up town.

His car had moved by then and was facing in toward the paint and wallpaper place on McLean Street.

We pulled up in the car in the street just before Steven's car. The same street as the Bin Inn is on.

I got out of the car and there was a patrol car parked over by LJ Hookers.

I took about two steps after leaving the car and I saw two people hiding behind a tree in the haunted house.

The haunted house is the house on the corner opposite the Bin Inn. It has a concrete wall in front of it on McLean Street.

I had a giggle in my mind as this looked quite funny.

I saw a Policeman in uniform walking down McLean Street towards Peter Budden's chemist shop.

*I said, "You fellas in the [*Deleted], fuck off".*

I looked back to those people again who were hiding.

This time they were running towards the house. It looked like they were running for their lives. They looked scared.

I don't know what time all this happened.

The Police car had its blue and red lights on.

The next thing before I knew it I heard a gun going off.

I heard 4 or 5 shots. I never heard a warning shot or anything.

I couldn't see anything else but I remember seeing a Policeman running away from Steven before the shots.

The Policeman was backing away fast, he was running backwards.

I was looking through the trees over the fence outside the haunted house.

I couldn't see all of Steven. But I could see his top half.

I could see Steven walking around but he had his hands down so I couldn't see if he was carrying anything.

I couldn't hear Steven or the Policemen saying anything.

After the shots were fired I saw one Policeman go fast up to where Steven was.

I wanted to stay but the others told me to get in the car.

We drove around the block to Parris Street then down Domett past the Police Station. We stopped at the intersection.

We stopped and we were all looking, I saw Steven on the ground and I was asking the others "Is that him, is he alive bud or what?"

The Police car was parked outside the Post Office.

I saw Steven move. Then I knew he was alive so we took off.

Witness 16 dropped us off home. Witness 18 was with me.

When we got home we were freaked. I never rang anyone up.

I never saw Steven have anything in his hands."

8.19 **Witness 17**

Witness 17 has known Steven WALLACE since they met at Waitara High School. He met up with WALLACE around 0200 hours on Sunday 30 April 2000 at The Mill Night Club and had a conversation with him. After The Mill closed at 0300 hours, Witness 17 travelled back to Waitara in an [*Deleted] motor vehicle belonging to another witness, Witness 16. The pair were accompanied by four other young people who witnessed Steven WALLACE smashing windows when they arrived back in the Waitara township.

The occupants of this vehicle, or at least the vehicle, came under a direct threat of attack from WALLACE and some of the occupants witnessed the lead-up to the shooting.

Witness 17's statement, refer **TAB 19**, is reproduced in full:

*"My full name is Witness 17 and I live at [*Deleted], Waitara. My phone number is [*Deleted]. My date of birth is [*Deleted] and I am [*Deleted] years old. [*Deleted]*

I am speaking to Detective Constable ASHTON in regard to an incident which occurred at Waitara on 30/04/00.

*I live [*Deleted] and my sister [*Deleted] aged [*Deleted] years and my brother [*Deleted] aged [*Deleted].*

*On Saturday night I went into New Plymouth. I'd played rugby for [*Deleted] earlier that day. We played in Waverley and won 30-28.*

We got back to Tikorangi at about 9 – 9.30. Then basically straight after that we went into New Plymouth.

I was with my team when I went into town. There's a team van.

We went into the Beaten Path. I stayed there most of the night or least between there and the Mill. I went around to a mate's place for a while and then went back to the Beaten Path.

Around 2.00am I went to the Mill and this is where I saw Steven WALLACE.

I know Steven from when I went to Waitara High School. He's older than me but we also had sporting connections. We both played softball and rugby together over the years.

Steven was on his own at the Mill or at least I didn't see him with anyone.

I was with Witness 15 and Witness 16. They are mates that I caught up with in town. All the guys from the rugby team went home or went their own way.

Witness 15 and Witness 16 both live in Waitara so I was after a ride home.

We were talking to Steven at the top of the stairs in the Mill. We would have been there for at least 10 minutes. I went downstairs with Witness 15 and Witness 16 and then a short time later Steven came down as well.

I was talking to him again downstairs. I was standing near the big tables which is in the first part of the downstairs area.

Steven seemed normal. I don't really know what Steven was drinking. I think he had a handle but I'm not sure. He didn't appear drunk or anything.

We were talking about anything and everything. Nothing in particular. I asked him what he was doing after and he said he was off home. I don't know where Steven lives at present.

He didn't seem agitated or angry at all. I've never seen Steven angry or anything. We've always been pretty good mates.

I think the last time I saw Steven would have been at a quarter to three. I left the Mill just before it all shut up.

I didn't see Steven talking to anyone else. Steven never spoke of taking drugs or smoking cannabis or anything like that. I would have remembered if he had.

I left the Mill with Witness 15 and Witness 16. I'm not sure if Steven was actually still there when I left or not. He didn't say how he was getting home or anything.

*We were in Witness 16's car. It's an [*Deleted]. Witness 16 was driving.*

After we left the Mill we went down to the main street (Devon St) and were just catching up with people from Waitara seeing how they were getting home.

*We ended up bringing [*Deleted] Witness 18 aged [*Deleted] years, her boyfriend Witness 19 and [*Deleted] home as well.*

*Witness 19 lives with Witness 18 on [*Deleted] but I don't know the number. It's the first set of flats on the left.*

*[*Deleted] lives next to the [*Deleted]. I don't know the name of the street.*

There was 6 of us in the car. In the front was Witness 15, Witness 16 and I. Witness 16 was driving. The others were in the back.

*We came from New Plymouth and into McLean Street. We were going to drop [*Deleted] off first. He lives on [*Deleted] Street. I've just been shown a map so this is how I know the name of the street.*

As we drove along McLean Street we noticed Steven's car parked directly in front of Peter Budden Chemists. The lights were still on in the vehicle. The car was about a metre from the doors.

I didn't know at first that it was Steven's car. Then we saw Steven by the Cashflow machine.

He had a golf club and a baseball bat in his each hand. The Cashflow machine is by Thelmas Lotto shop.

When he saw us he started running onto the road towards us. He had the baseball bat raised above his head, like he was going to hit us.

Witness 16 accelerated really quickly to get away from Steven. I don't know if he actually swung at the car or not. I was on the passengers side and Witness 15 was in the middle.

I know he was pretty close. I didn't hear if he yelled anything out as all our windows were up.

It was dark but there was plenty of street lighting. I first knew it was Steven when he was running towards the car.

Steven wouldn't have known it was us. He doesn't know Witness 16 as well as Witness 15 and I.

I thought he was going to hit the car.

We drove down to the roundabout and turned around to come back. We turned into Domett Street and at this stage Steven was just about to smash the window at Peter Budden. It was the window on the Domett Street side of Peter Budden.

I wound my window down and yelled out to him to settle down. We were going around the corner at this stage. I was the only one who yelled out.

He didn't react to my yelling out, he just carried on smashing the window.

When he was running at us his face was really angry looking. There looked like there was something really wrong with him. He wasn't the same person we'd seen ¼ of an hour to an hour earlier. It was a real shock to me to see him like this.

*We drove around Bank Street then and dropped off [*Deleted]. Then we came back onto McLean Street. When we got back to McLean Street Steven's car was gone from Peter Budden. I didn't notice any other persons or vehicles on McLean Street.*

Then I noticed it was up by the paint place on McLean Street. It was parked facing the curb outside the paint shop.

I didn't see where Steven was as we came out onto McLean Street.

I'm not sure which way we went but we ended up on Grey Street beside the old brick house facing the river.

We all jumped out of the car and then we also saw the cops at the same time.

We were by the car. I first saw Steven running along McLean Street towards the Post Office.

I saw him go across the Grey St intersection. He was running when I saw him.

I saw him throw the golf club or at least I think it was the golf club. Refer to diagram.

Once he'd run past the corner of Grey and McLean Street I couldn't see him because there was a big massive tree and fence in the way.

As Steven was running he was yelling something but I couldn't tell you what he said.

I saw a Police car parked on the corner of Grey and McLean Street. There was a tall Policeman in uniform standing there with a gun.

I only saw the tall Policeman by the car and he had his gun pointing down McLean Street towards where Steven had run.

*Then he yelled out to us. He said, "You guys in the [*Deleted] fuck off".*

Soon as he said that he started shooting. I heard at least four or five shots. The shots seemed to be straight after one another.

I thought it was the tall cop who shot because he had the gun and he was pointing it. Then I heard the shots.

When we heard the shots we jumped in the car and drove around and came back into Domett Street.

*We saw the taxi van on Paris Street. It drove down Domett Street as well. The taxi van was white with yellow stripes. I saw a mate in the back seat. His name is [*Deleted] who lives on [*Deleted] Street.*

When we got to the intersection of McLean and Domett Street we could see Steven on the ground trying to move.

I didn't hear him saying anything.

Steven was on his knees moving around. We didn't stop. We carried on and went home.

When Steven was on the ground I didn't see anyone near him or on the street. There was a Police vehicle at the corner of McLean and Domett Street with a Policewoman sitting in it.

When Steven ran past on the corner of Grey and McLean Street I didn't call out to him or anything. When he ran past I couldn't see what he looked like, it was a lot darker there than what it was further up the road.

At the time it was just a shock. When he came running towards us the first time I felt quite threatened by him.

I've never known Steven to lose it and smash things like this before.

I have read this statement and it is true and correct."

8.20 **Witness 16**

Witness 16 is the owner of the previously described [*Deleted]. He was present throughout Saturday evening and early Sunday morning with the previous Witness 17. Unlike Witness 17, Witness 16 did not know Steven WALLACE prior to meeting him at The Mill Night Club in the early hours of Sunday 30 April 2000.

Witness 16's statement, refer **TAB 20**, is reproduced in full:

*"My full name is Witness 16 and I live at [*Deleted], Waitara. My phone number is [*Deleted] hm, [*Deleted] wk. My date of birth is [*Deleted] and I am [*Deleted] years old. I am a [*Deleted].*

I am speaking to Detective Constable ASHTON in regard to an incident which occurred in Waitara on 30/4/00.

*I live at [*Deleted] with my mother [*Deleted] and father [*Deleted].*

*At about 7.30pm on Saturday the 29th of April 2000 I picked up my mate Witness 15 from [*Deleted] Street in Waitara.*

*I was driving a [*Deleted] It's a [*Deleted] with a roof. The rego is [*Deleted] I think. It's a four door sedan. Its in mint condition.*

*We drove from Witness 15's place and picked up Witness 15's cousin [*Deleted] on [*Deleted] Street.*

*Then we came into New Plymouth. We went to a flat on [*Deleted] Street. I don't know the number. I've just sort of met the guys that live there.*

*We stayed there till just after 11.30pm. Then a group of us walked into town. I left my car at [*Deleted] Street.*

*We went to the Beaten Path and the Mill. We met up with [*Deleted] at the Mill. He was with all his rugby mates.*

Witness 17, Witness 15 and I were still at the Mill when we saw Steven WALLACE. I didn't know Steven but Witness 17 and Witness 15 did. I was just standing there while they were talking to him.

Witness 15 and Witness 17 were talking to him in the bottom bar at the Mill. They were talking for about 15 minutes. Steven seemed quiet as. He seemed normal to me.

At the end of the night we were in the bottom bar still and we were told to go out the back way as they'd locked all the doors up the top.

As we left I noticed Steven on the path which leads to the parking lot. He was rolling a cigarette. He had his filters and tobacco packet.

Witness 15 and Witness 17 said how's it going and that and we'll catch you later.

I'd had a couple of rum and cokes through the night but not much. Witness 17 and Witness 15 had had a few. They weren't legless or anything.

*Witness 15 and I walked back to [*Deleted] Street to pick up my car. This would have been just after 3.00am.*

Witness 16 was with Witness 19 and his sister Witness 18. The last time I saw Witness 17 was going into the Beaten path. Witness 17, I presumed was going to get a taxi home.

When I got to the car we just hopped in. We didn't go into the flat.

We drove through Devon Street and saw Witness 17 on the corner of Currie Street and Devon Street.

*We saw him and waved. He yelled out for a ride. We said sweet as. Witness 17 had his sister Witness 18, her boyfriend Witness 19 and [*Deleted].*

I drove straight towards Waitara. In the front was me driving, Witness 15 was in the middle and Witness 17 on the outside.

*In the back Witness 19 was behind me. [*Deleted] was in the middle and Witness 18 was behind Witness 17.*

*I was going to drop [*Deleted] off first. Witness 17 was giving me directions as to where to go.*

I drove down Big Jims Hill and turned into Waitara and drove along McLean Street.

As we were driving past Caltex Witness 17 noticed something that looked like a fight going on.

I looked and noticed someone was beating in the Cashflow machine. The Cashflow machine is beside the Post Office.

The person was beating it with a baseball bat. I think he had a golf club as well.

As we came level with him I stopped. I stopped cause Witness 17 had said that's Steve and I remembered him from the Mill.

I had stopped completely. Witness 17 was calling out to him. He had his back to us. Then he turned and started coming towards us.

He was yelling, "Fuck off". He said it at least twice.

First he started walking towards us then he started running. That's when I floored it to get out of there. I was worried about my car getting hit.

Steven had the baseball bat in his right hand and the golf club in his left. He was running really hard towards us. I realised he wasn't going to just talk to Witness 17 or Witness 19.

He looked really angry. He was obviously pissed off about something.

As I took off I noticed a black Prelude parked facing the door of Peter Budden. Both front doors of the vehicle were open. I can't remember if the lights of the car were off or on.

I was really worried about my car and as far as I was concerned he was going to hit it with either the bat or the golf club.

I drove down to the roundabout. Turned around. Witness 17 and Witness 19 wanted to go back to talk to him because they thought he hadn't recognised them.

We couldn't understand how he could have changed so much since the Mill. I think it would have been about 30 to 40 minutes since we'd seen Steven at the Mill.

When we drove back down McLean Street Steven was outside Peter Budden hitting the windows.

I was concentrating on where I was driving and making sure that I could get out of there in a hurry.

I turned right into Domett Street. I stopped. Witness 17 wound down his window and yelled out, "Steve, Steve".

Steven was smashing the windows on the McLean Street side of Peter Budden. When Witness 17 started calling out Steven started running towards us again. It was obvious he wasn't going to talk. Witness 17 said, "Get out of here".

*So I drove down and turned into Bank Street and dropped [*Deleted] off. We were there for about 3 or 4 minutes.*

I then drove along Bank Street onto Queen Street. Witness 17 wanted to go back cause he knew him.

So I turned right into Queen Street and then right into McLean Street and back towards where he was.

As I drove into McLean Street I noticed a couple of Police cars.

There was one parked in near Pro Sports. I remember passing one Police vehicle but can't remember where.

I drove along McLean Street and turned into Grey Street. I stopped the car just on the corner.

As I was driving I saw Steven coming from his car which was now parked in front of the decorating shop.

He was walking along McLean Street on the left hand side of the road. He was yelling but I couldn't tell what he was saying cause I had my window up.

He was carrying something in each hand. One looked like a Police baton and the other looked like a baseball bat.

I didn't really know I was driving and really concerned he'd hit my car.

I saw a Policeman in uniform by the Police car, marked on the diagram as X (diagram 2).

When I stopped the car we all got out. I stayed by the drivers door. I wasn't going to leave the car.

I remember seeing the Policeman X pointing something but I can't say if it was a gun or not.

By the time I'd got out of the car Steven had moved out of my vision. There was a fence and trees and building in my way.

Steven would have been along in front of the Post Office area at this stage. I sat in the car for a while before actually getting out.

*Once I got out of the car the Police X yelled at us, "You guys in that [*Deleted] fuck off".*

Then a short time after that I heard one shot then a gap and then two shots close together. I heard 3 in total.

Once I heard the shots I said, "Come on let's get out of here".

So we all jumped in the car and I drove along Grey Street and turned left into Parris Street and then left into Domett Street.

When I came back up to the corner of McLean and Domett Street I stopped and saw Steven on the ground in the middle of the road.

He was still moving around. He was sort of rolling. There were two uniformed Policemen moving towards Steven and that's all I noticed.

I didn't stay there long. We thought we were going to get in the shit for getting mixed up in it.

I turned right into McLean and went and dropped off Witness 17, Witness 19 and Witness 18.

Witness 15 and I went up to the Manukorihi heights and sat and watched for a while before we went home.

We sat and watched the ambulance and that arrive.

At the time I felt really freaked out.

I remember the Police yelling, "Stop", or "Stop moving", or something. There was a bit of yelling going on when I got out of the car. It's hard to say who was actually doing the yelling.

When I was at the Mill Steven was wearing grey sweatshirt and trousers but I don't know the colour.

When I saw him again I think he just had a tee-shirt on.

I have read this statement and it is true and correct."

8.21 Witness 14

Witness 14 resides at [*Deleted], Waitara. In his statement, refer **TAB 21**, he records:

*"My full name is Witness 14. I live at [*Deleted], Waitara. My phone number is [*Deleted]. My date of birth is [*Deleted]. I am the owner [*Deleted].*

I am speaking to Detective Constable ASHTON in regard to an incident which occurred early this morning, being Sunday the 30th of April 2000.

*I live at [*Deleted] Street with my wife [*Deleted]. There was just the two of us at home last night.*

I went to bed at about .00am.

I got out of bed at around 3.00am to get a drink. I looked out the kitchen window and saw some fireworks going up behind the old works.

Behind my place is Wrights Lane.

A short time later I heard the alarm go off at New World Supermarket. I can see the light flashing from my kitchen window.

Then I heard smashing glass. I then heard a vehicle moving off. I actually heard him shut the door and then the vehicle moved off. I could tell that he had a flat tyre by the noise the car was making.

The vehicle headed along Queen Street towards the TSB Centre.

I went to the other end of the flat and looked out the window. I saw his tail lights disappear through the intersection and carry on towards the river.

I came back and got my trackpants on and went downstairs and hopped in my car which was parked outside, on McLean Street in front of my door.

*My car is a [*Deleted].*

I did a U turn and as I drove up McLean Street I noticed a car parked in front of the doors of Peter Budden Chemist.

I was originally going to go to the supermarket but when I saw that car there I decided to carry on down McLean Street.

As I drove down I noticed a 2 door, light colour car parked outside the cycle shop. It was facing towards New Plymouth. There was one male occupant. He was wearing a golf type cap.

I thought at first that they might have been going to do a chemist break. The guy was definitely watching the vehicle at the chemist.

*Something tells me now that it might have been [*Deleted] watching him but I'm not sure.*

I slowed down then the car parked outside Peter Budden backed out and headed towards New Plymouth along McLean Street.

I followed him. I was about 6 car lengths back. I was trying to get his rego number.

The car drove up as far as the Memorial Hall then he spun it round to face the opposite direction. There was a lot of smoke when he did this.

He was then coming back towards me. He drove towards me so I drove in between the trees. He would have had to hit a tree before me.

Then he swung in just past the BP garage in front of the first shop on the left. He got out of the car and started breaking the windows. He broke the windows of about 3 different premises there.

At this stage I'd turned around and was parked in the driveway of the BP watching him.

Then he hopped back in his car and drove across the road so his car was now facing Bedfords Major Colour. The lights of the vehicle were still on and the motor was still on.

He hopped out of the vehicle and started smashing the windows of the office and the colour shop.

I thought he was using a small sledge hammer to break the windows but I now know that it wasn't.

Then a taxi came along. I stopped it to prevent it from going down the road. The taxi was a van full of young people.

Some of them started yelling out to him. They were saying, "Hey bro what are you doing".

That's when he ran off down McLean Street towards Domett Street.

At that time two Police vehicles came out of Domett Street.

One stopped at the intersection of Domett Street and McLean Street, facing towards New Plymouth.

The second vehicle drove along the wrong side of the road and parked just down from the Grey and McLean Street intersection.

I saw two officers get out of the vehicle closest to me. I drove down a bit closer. I was just about at the Grey Street intersection. The guy's vehicle was directly opposite mine.

The next thing I heard was a Police Officer say, "I'm armed, I've got a gun".

Next minute I heard one shot fire then a double shot and then another double shot. So there was 5 shots all told go off.

I lost sight of the guy when he was headed towards the Police vehicle at the end by Domett Street.

I don't know what he did down there as the lights from the car prevented me from seeing anything.

After the shots were fired I drove off and went down Grey Street and then came back along Domett Street.

The car parked outside the cycle shop was gone when I got back there.

I didn't see which Police Officer fired the shots.

The taxi drove off before the shots were fired. He drove down Grey Street, the opposite way to where I went. I went towards Paris Street.

I spoke to the female Police Officer when I came around to Domett Street. She told me the guy had a stick.

I didn't see him hit the Police vehicle. This was when I saw the smashed Police vehicle.

I remember Steven lying there on his own for quite some time. Steven was yelling out in pain for quite a while then he just stopped.

No one went near him. They put the blanket on him as the ambulance came around the corner.

I have had this statement read to me and it is true and correct."

8.22 **Witness 34**

Witness 34 was with a group of young people in a taxi van returning from an evening out visiting New Plymouth bars when the taxi was flagged down by the previous witness, Witness 14.

In her written statement, refer **TAB 22**, Witness 34 records:

*"Witness 14 is my [*Deleted] relation and I see him every now and then.*

He waved at us either directing us to pull over or to come towards him.

The taxi pulled up outside the BP garage.

Witness 14 then waved at us again for someone to go to him.

*[*Deleted] hopped out and went over to Witness 14.*

*[*Deleted] told me that Witness 14 had said something about what was happening but I can't remember what.*

It was then I could see a car parked down outside the paint shop facing towards it.

It was black car. The driver's door was wide open.

I then saw a male person with a softball bat coloured silver hit the windows of the little shop.

He hit the windows over and over.

I could see him in the light of the windows. I couldn't see his face and I thought he might have been wearing a hood.

The taxi I was sitting in was parked in the forecourt of the BP garage half on the footpath and half off it.

I could see the guy clearly but not his face.

I thought I had seen some Police cars but they disappeared.

The guy then started walking down McLean Street towards that brick house on the corner.

He was still carrying the bat.

Then somebody wearing plain clothes started walking towards him.

This person then began walking backwards down McLean Street because the guy with the bat was walking towards him.

I think he just had the bat down at his side.

I couldn't hear a thing.

The guy with the bat was walking at quite a pace towards the person in plain clothes backing back.

I am pretty sure there was a Policeman around at this time too but I don't know where he was.

I remember a Police car parked down by the chemist.

I don't think the guy backing back down the road was a Policeman.

The next thing I remember is a Policeman standing down by the Police car down by Peter Budden chemist.

The Police car was in the middle of the lane outside the chemist and the Policeman was standing in between the Police car and the middle of the road.

I saw the Policeman with his arms and hands pointing out in front of him.

I thought he had a gun in his hands.

He was pointing at somebody, the guy carrying the bat.

I said something like, "Far out he's got a gun" or something like that.

Someone else said, "They don't carry guns", then someone said, "Yeah they do, they carry things like rifles in their boots".

The guy carrying the bat had come to a standstill.

I think it was about then the taxi we were in drove off up Browne Street, along Parris Street then down Domett Street past the Police Station."

8.23 **Witness 10**

Witness 10 lives at [*Deleted] McLean Street, Waitara. It was virtually outside the front of Witness 10's address that Constables A and B parked their Police patrol vehicle prior to making contact with Steven WALLACE. (Refer Plan, Appendix E)

In his statement, refer **TAB 23**, he records:

*"My full name is Witness 10 but everyone calls me [*Deleted]. I live at [*Deleted] McLean Street, Waitara. My date of birth is [*Deleted]. My phone number is [*Deleted]. I am [*Deleted].*

I am speaking to Detective Constable ASHTON in regard to an incident which occurred earlier this morning.

*I live at [*Deleted] McLean Street with Witness 11 and her son Witness 35.*

I went to bed at about 9.00pm last night, being Saturday the 29th of April 2000. I was asleep when Witness 11 came to bed. I don't know where Witness 35 was.

The sound of breaking glass first woke me up at about 4.10am this morning.

I went out the front door to see what was happening. I saw a dark green car parked by Bedfords Colour Centre on McLean Street.

The vehicle was straight towards the footpath. By this I mean the front of the vehicle was facing the futter. The headlights were on. I don't know the vehicle type. I don't know if the motor was going.

Then I saw a guy walking down the road towards the Waitara River end of McLean Street. He came from the direction of the car. I didn't see him actually get out of the vehicle, I just saw him coming from that direction.

He was carrying a golf club and what looked like a baseball bat. He had one in each hand.

I didn't hear him say anything.

He came down the middle of the road.

I heard someone call out to him.

It was a Policeman in uniform. The Policeman was on the other side of the road on the footpath. He was on the corner of Grey and McLean Street.

When the Policeman called out he said, "I'm armed Witness 2, I've got a gun".

I didn't hear anything else said at that stage.

The guy with the bat and golf club just kept going. He didn't speak.

I would have been about 20 feet away from the guy with the bat and golf club. I said to Witness 11, "Come on, let's get inside". At this stage the gun was pointed in our direction.

We both quickly ran inside. I tripped over the step as I went.

*I saw a light green [*Deleted] parked on Grey Street when I first went outside. There was a girl and someone else standing by the vehicle. The vehicle was parked about 20 feet down Grey Street facing the river.*

It took off once the guy started walking up the road. I never heard them say a word.

Once inside I heard 4 or 5 shots go off.

I then went back outside and saw a Policeman in uniform standing just off the gutter on the road.

The guy I'd seen earlier with the bat was lying in the middle of the road.

The Policeman still had the gun. He was the same one I'd seen on the corner. There were a couple of other Policeman running around.

I don't know how the guy was lying. I'm unsure as to whether he was on his back or front.

While standing at the gate Constable A was walking up the footpath on my side of the road towards the vehicle parked outside the paint shop.

As he walked past I said, "You shot him 4 or 5 times".

He said, "You want to go back to school and learn to count".

*Then he carried on walking up the road. I know it was him because [*Deleted].*

Then I yelled out to a Policeman across the road words to the effect of, "Do you want a blanket".

He replied, "No he's still going to get us". I said, "No, he's not, you shot him 4 or 5 times".

I sent Witness 11 in to get a blanket. She brought it out. I was going to take it out but they wouldn't let me. They came and got it and put it over his knees but not his whole body.

I hung around watching for a while then I went to work at 6.30am.

I didn't see Constable A with a gun.

There were a couple of Police vehicles parked outside our address somewhere but I don't know exactly where. Some left after that.

Constable A was wearing plain clothes. A green or fawn shirt and fawn pants I think. He had on a Police belt.

*I also walked up to the vehicle with [*Deleted] to have a look at it.*

It seemed to take ages for the ambulance to arrive.

This statement was read to me by D/Constable ASHTON and it is true and correct."

8.24 **Witness 11**

Witness 11 is the partner of the previous Witness 10 and resides with him. In her statement, refer **TAB 24**, she records:

*"My full name is Witness 11 and I live at [*Deleted] McLean Street, Waitara. My phone number is [*Deleted]. My date of birth is [*Deleted]. I am a [*Deleted].*

I am speaking to Detective Constable Sue ASHTON in regard to an incident which occurred here early this morning.

*I live at this address with Witness 10, my partner, and my son Witness 35, aged [*Deleted] years.*

Last night I went to bed at about 9.30pm or 10.00pm. Witness 10 went to bed at the same time and Witness 35 was in his room.

The sound of breaking glass woke me up. I would have heard it about 10 minutes prior to actually waking up properly. At first I thought it was Witness 35 cause he keeps ungodly hours.

I think it was about 10 past four when I woke up. I managed to wake Witness 10 up at about quarter past 4.

We both flew out of bed and looked out the bedroom window at the vehicle as I thought they were being dealt with.

Our bedroom faces McLean Street. The windows would have been shut as they don't open.

*Then we both rushed into the lounge to check out the [*Deleted] to make sure no one was breaking into that. The lounge window faces Grey Street.*

Then rushed back down the passage and out the front door which faces McLean Street and heard more smashing glass.

I heard two vehicles. One took off. It sounded like a smallish car. Then I heard another car absolutely barrelling it and it sounded like it had a big motor.

When we went outside we heard more breaking glass. We headed towards the corner of Grey and McLean part of our property.

*I saw a green [*Deleted], I think it was a [*Deleted]. It came along the main street from the Post Office area. Turned left into Grey Street and stopped 20 or 30 feet from the corner.*

Then I saw a Police vehicle pull up just outside our front fence. It parked sort of on an angle facing Grey Street.

The Police vehicle was a marked car. Two uniformed persons got out of the car. Then I saw Constable A who was not in uniform. I'm not sure where Constable A came from. Constable A was wearing dark trousers and a light coloured tee-shirt.

The next thing I remember Witness 10 saying to me, he's got a gun. I said, he hasn't, he can't have.

Then I saw the offender in the middle of the main street and Grey Street intersection.

I didn't see where he came from, I just saw him in the middle of the road.

This guy wasn't tall, he had short hair and he was a Maori. I don't recall what he was wearing or anything else. He was walking away from the cops towards the Post Office. He had a golf club in his left hand and he had something in his right hand that looked like a baseball bat or something.

When he was at the corner I heard someone say, "we've been after you for a long time Witness 2". Then another voice said, "I've armed, put them down". I don't know who these voices belonged to.

Then I was standing there and the Constable was pointing the gun at the guy walking down the street. Then I thought the gun was pointed in our direction, so I ducked behind a tree. Then I said to Witness 10, let's get out of here. So we both ran inside. I slammed the front door but Witness 10 had tripped over the front step. I had to re-open the door for Witness 10. Then I went and knocked on my son's room and said they're going to shoot someone. He said, "You're not supposed to wake me till 10 o'clock".

Then I heard 4 or 5 shots. I knew they were from a gun.

A uniform Constable had the gun which pointed in my direction. I don't know if anyone else had a gun. That was the only gun that I saw.

Constable A was definitely outside our house.

I went outside the front gate which is on McLean Street. I saw someone lying on the road. He was in the middle of the road in between the Post Office and the chemist.

He was lying on his tummy groaning. Then he got up on all fours and did some more groaning.

I offered a blanket to keep the guy warm. He was groaning in pain. I couldn't hear any words he was saying.

I called out and offered the blanket to two Policemen who were directly across the road from me.

I was told not to bother, it's still too dangerous.

Then Witness 10 said to Constable A who was in the middle of the road walking towards us, Witness 10 said you didn't have to shoot the poor guy four or five times, did you?

Constable A said you should go to school and learn how to count.

Then Witness 10 said, where's the ambulance. This was about 10 or 15 minutes later. They said, it'll be here in a minute.

Then Witness 10 said, come on, do something for the guy, at least give him a blanket. The guy on the ground was still moving around. He was still doing the odd groan, but not much. This was after about 10 minutes after.

Then the tall skinny guy who I'd seen with the gun said, well, have you got one. I then ran quickly inside and got a blanket from the hot water cupboard.

Then one of them came over to the gate and got it from me and he said to me, do you want it back. I said, no, it doesn't worry me.

The Policeman got the blanket and walked over to the guy in the middle of the road. He lifted his shirt up and looked at his back. He was lying on his stomach.

There appeared to be no movement at this stage.

His back was left exposed and he put the blanket over the lower part of his body.

The ambulance arrived what seemed like ages. It could have been about 20 minutes or more.

They started working on him. Then another ambulance arrived.

I wanted to go and help him but I wasn't allowed out of the gate.

I kept getting told it was a crime scene, get back.

After I saw the Police car pull up outside our place I heard a male person yelling out from the green car on Grey Street. It said, "Get in the car man, get in the car".

Then the vehicle just took off towards the river. I don't know how many people were in the car.

The green vehicle was the only car I saw.

I have read this statement and it is true and correct.

SIGNED: [*Deleted]

"I've just thought of something else. It was still dark. The street lights were on. The guy had gone in the ambulance.

A uniformed officer but I'm not sure which one picked up bits and pieces from the crime scene.

It was about 15 feet from where the triangle is now on the street.

It sounded like cartridges or something. I'm just assuming this.

I have read this statement. It is true and correct.

Note: Enquiry has established that the Uniformed Officer seen picking up objects from the crime scene was not a Police Officer, but rather a St Johns Ambulance Officer, [*Deleted].

8.25 **Witness 35**

Witness 35 is the son of Witness 11 and lives with his mother and her partner Witness 10. The significance of this statement being that the witness corroborates the fact that his mother and her partner Witness 10 had retreated inside at the time of the shooting and did not witness the final critical moments. In his statement, refer **TAB 25**, he records:

*"My full name is Witness 35 and I live at [*Deleted] McLean Street, Waitara. My date of birth is [*Deleted] and I am [*Deleted] years old. My phone number is [*Deleted]. I am a [*Deleted].*

I am speaking to Detective Constable ASHTON in regard to an incident which occurred earlier this morning.

*I live at [*Deleted] McLean Street with my mother Witness 11 and her partner Witness 10.*

I went to bed at about 11.00pm. Mum and Witness 10 were in bed.

At about 4.00am Mum and Witness 10 woke me up saying, Witness 35, there's a cop outside and he's about to shoot someone".

I just said, Yeah, Yeah, whatever". They said, "No, we're serious".

Then I heard what sounded like 4 or 5 shots. I jumped up and ran outside in my shorts and tee-shirt.

I got out to the gate which faces McLean Street.

I saw a Police vehicle with flashing lights up on the corner of McLean and Grey Street outside the Real Estate Office.

There was another cop car up outside the paint and decorating place beside a black Nissan.

The black Nissan was facing towards the curb on an angle. The lights were still on, and I noticed the fan was still going when I went for a walk up there, about 5 or 10 minutes later.

There was a cop about 2 metres from where the guy was on the road.

The cop was in uniform. There was another one behind him somewhere but I don't know where, cause I looked again a short time later and he was beside the other one-----".

8.26 **Witness 4**

Witness 4 is a local taxi driver who came across and witnessed the shooting incident while on his way to work. At the time he made his statement to the Police he was motivated in part by the belief (contrary to what Police media releases indicated) that Steven WALLACE was not carrying a weapon at the time he was shot.

Witness 4 records that he initially observed a man (Steven WALLACE) walking up the middle of the road towards him from an estimated 200 metres. He also observed other people outside Peter Budden Pharmacy, one of whom had his arms pointing out and holding an object. Witness 4 describes shouting and loud voices but could not discern what was being said. He then states that the shouting stopped and was followed by a shot and then a series of shots about a second later. Witness 4 records that following these shots WALLACE continued two or three steps then fell to his knees and facedown on the road. He was unable to say who or which person had shot WALLACE.

It has been established that the position Witness 4 parked his taxi and from which he viewed the actual shooting was just over 100 metres distant (approximately 104 metres). It is noted that Witness 4 was not wearing his glasses at the time although he is required to do so when driving.

Following Witness 4's interview investigators returned to the scene of the shooting just after 0400 hours on 9 May. One investigator

positioned himself at the point Witness 4 parked his taxi, while a second (holding an aluminium baseball bat) moved to the position where Steven WALLACE was shot. The Detective observing from Witness 4's position records that while he could identify the dark outline of his colleague and could distinguish his arms when held away from the body, it was not possible to distinguish the baseball bat being held. The Detective records, "... the scene was backlit by lights from the shops and gave me a poor quality silhouette. I was not able to make out any form..."

In his statement, refer **TAB 26**, Witness 4 records:

*"My full name is Witness 4. I am [*Deleted] years old, being born on [*Deleted]. I was born at Auckland.*

*I live at [*Deleted] Street, Waitara. The phone number at home is [*Deleted]. I live here with my wife [*Deleted].*

*I am a part time driver for [*Deleted] of New Plymouth. The work phone is [*Deleted].*

I am making this Statement to Detective ADLAM of the New Plymouth Police about the Steven WALLACE shooting in Waitara on Sunday 30 April 2000.

Last Sunday, that's 30 April 2000, I was due to work a Shift for the cabs between 5am at Brougham Street, finishing at 4pm in the afternoon.

The alarm clock went off at 3.30am that morning and I woke up. I got up and washed, shaved and that, and had some breakfast. I remember tidying up, getting ready to leave and hearing the cuckoo clock go at 4 o'clock. I knew then that I had to get moving otherwise I would be late.

I went out to the car, after locking the house, and started on my way to work. I was on my own.

*Detective ADLAM has asked me what sort of a car I have. It is [*Deleted] [*Deleted]. It has a [*Deleted] engine and its registration plate number is [*Deleted].*

I decided to go into Waitara because I needed to put some petrol into the car. I was going to put \$20.00 in it at Dick Wilsons which is the Caltex on McLean Street, Waitara.

My path into Waitara was that I went down Bayly Street until I met Princess Street. I turned right onto Princess Street and travelled along there until I got to Richmond Street. Once I got here I turned left onto Richmond Street and left again onto North Street and across the bridge and river and onto McLean Street.

Detective ADLAM has asked me if I passed any vehicles on the way in, I don't know. I possibly could have but can't be sure. I know it was not daylight outside. I was driving with my lights on.

I am required to wear glasses on my Drivers Licence but I wasn't actually wearing them then. I am able to see fine to drive, unless I get tired when I put my glasses on. As I said I didn't have my glasses on but did have them with me.

Once on McLean Street I carried on down towards the Caltex. I got to the clock tower roundabout at the intersection of Queen Street and McLean.

I drove around the roundabout and then I saw something down further on McLean Street that made me pull up and stop.

I pulled up outside the TSB Bank on McLean Street, just the other side of the roundabout. I pulled off the road and parked. I turned my lights off, but left the motor running. I was still facing down McLean Street towards the Caltex.

What I could see was a person in the middle of road, I thought it was a man. I don't really know why but it wasn't dressed like a woman and I thought it was a man. He was walking up the road and towards my direction.

I estimate I was probably a couple of hundred metres from this guy.

It appeared to me that he was outside Thelma's Lotto and Bookshop but in the middle of the road.

I could not see this person holding anything in their arms. I couldn't really make out his clothing but think he was wearing jeans and a top that had two different colours on it. I think it was definitely a dark colour with some sort of stripe running down the front of it.

I could see two people on the right hand side of this person outside Peter Budden's Chemist.

One of these persons had their arms up and was pointing an object at the guy in the middle of the road. I couldn't tell exactly what he had in his hands at this stage though.

I thought these two, who were standing next to the footpath, like possibly in the gutter area, were Police.

I thought this because of them being dressed the same, and they appeared neat and tidy in their dress, like a uniform.

I am sure that both of these people were male Police Officers. The one with his arms out, pointing was a taller skinny Officer. The other guy was shorter, and of medium build.

The tall Officer was slightly in front of the other, and they were both facing the direction of the guy in the middle of the road. The Officers were closer to my end of the street than the guy so they were actually facing away from me, but sort of side on, looking at the man in the street.

I could also see a fourth person whom I thought was another Police Officer.

I thought this because they seemed to be with the other two, and dressed similar although I think this third Officer was wearing a shirt and I thought was a female.

This third Officer was further down the street towards Grey Street. I couldn't actually see the third Officer so clearly though because the other two were a bit in the way.

Detective ADLAM has asked me if I could hear anything being said. I could hear shouting, loud voices but not exactly what was being said. The windows were up in my car and because of what I could see I'd locked the doors as well.

Detective ADLAM has asked me about the demeanour of the person in the street. They looked as though they were just walking along.

I couldn't really say anything else, to my mind he was walking down the street.

Detective ADLAM has asked me how far apart I thought the Police Officers, the one pointing at the guy in the road, and that guy in the road were apart.

I think about half the road width, or slightly less. They weren't far apart, maybe eleven yards or so.

The shouting then stopped. It seemed like fairly much straight afterwards that I heard a shot.

It was about a second later that I heard another series of shots. I think there was another four shoots, they went off simultaneously one after the other.

At the point the guy was shot he was just still waking down the road.

Detective ADLAM has asked me who shot the person on the road. Well I can't really know, but it must have been the tall skinny Officer because he was the only one with his hands up, pointing at the guy.

The other guy was just standing there, that's the second cop I mean, I don't know if he was armed or not.

Detective ADLAM has asked me if the Police moved during this incident. The whole incident only probably lasted thirty seconds from the time that I saw it first.

In that time the people were positioned as I've said. But the guy in the road was walking up the street, I think pretty much straight up the centre line or thereabouts. The Police Officers were walking backwards, also in the direction of me.

The guy up the middle of the road was walking at a speed I would describe as moderate. It wasn't like slow, but not a pace that he would have been out of place if he walked like that up town on a shopping day.

The Police were walking back slowly, the guy was definitely closing in on them.

The guy didn't really walk towards the Police, he seemed to be walking up the centre line.

After the shots were fired the guy on the road walked two to three steps then fell onto his knees, then face down on the road.

At that point I knew he had been shot. I wanted to get the hell out of there.

I didn't really take any notice of what was going on then at the scene.

I drove straight down a lane on the left in front of me. Detective ADLAM has shown me a town map, the lane is named 'Dowding Place'. I drove down here and found an exit through to Queen Street. I went through here onto Queen Street and turned right onto Parris Street. I drove at speed down Parris Street and out onto Devon Road and into New Plymouth.

On the main road towards New Plymouth I met other Police vehicles coming out, including a dog van. I think I saw two Police cars, a dog van and then a ambulance. They weren't travelling in convoy.

I went to work and did a day's work. I was very shaken and disturbed at what I saw.

I wouldn't talk about it and couldn't do so until Wednesday.

*On Wednesday at work I told [*Deleted]. He is [*Deleted]. I told him at about 6.45am at [*Deleted].*

I felt I had to tell someone about what I saw, I couldn't sleep and knew I had to do something about it.

*I had been told to stay out of it. [*Deleted] told me this on Wednesday because he didn't want the Company name involved. Especially as one of our cabs was already involved and that the driver of that car has been interviewed by the Police.*

But I've come to make a Statement because I think I need to and that I saw the shooting.

Detective ADLAM has asked me about the positioning of the two male Police Officers and who was closest to me.

The shorter male Officer was closest to my end of McLean Street. The taller skinny Officer was on the Nelson Street side of him, but about a half step forward of the shorter Officer.

I HAVE READ THE ATTACHED STATEMENT, IT IS TRUE AND CORRECT AS I SAW IT AND HAVE NOTHING FURTHER TO ADD"

8.27 **Witness 36**

Witness 36 is a New Plymouth taxi driver who had delivered a group of people in his 10 seater taxi van from the Shell Courtney Service Station in New Plymouth to Waitara and, as a consequence, witnessed some of Steven WALLACE's activities.

In his written statement, refer **TAB 27**, he records:

*"My full name is Witness 36, I live at [*Deleted] Street, New Plymouth, phone [*Deleted]. My date of birth is [*Deleted]. I work as a Taxi Driver for [*Deleted].*

I am making a Statement to Constable ISAACSON in relation to the incident in Waitara that I observed on the 30/04/00 at about 3.50am.

*I have been a Taxi Driver for about [*Deleted].*

On the 29th April 2000 I commenced work at about 4 or 5pm. I was designated the Night Shift duties. I was to work through until about 4 or 5pm. It was a 12 hour Shift.

I was driving the taxi van that night, it is a 10 seater. I picked a group up from the Shell Courtenay Service Station.

They wanted to go to Waitara.

I drove into Waitara on the Nelson Street entrance and then on to McLean Street.

As I approached the BP Service Station on McLean Street a vehicle waved me down.

It was a brown Sedan. It was a male person. They were in their vehicle. He had his hand out of his window getting me to slow down.

I slowed up and watched what was happening in front of me.

I saw a male person possibly Maori, about late 20s, of a solid and athletic build holding a baseball bat and was using it to smash the shop windows.

He looked pretty psychotic. When I was looking at him he was smashing windows on the left hand side of the road, then he crossed the road and smashed the windows on the right hand side.

He was a safe distance, maybe 50 metres from us. It sounded like one of my passengers knew him, they said, "Oh there's _____". I don't recall the name they said.

I had stopped the taxi van. I pulled over to the left. This was directly outside the BP Station.

I then noticed a Police car turn up.

I saw two Officers get out of the car, one had the pistol on him. He was taller than the other person – Officer and wore a woollen top. I think it was Police uniform.

The other Officer looked like he had a Police uniform on too, a blue shirt and black pants.

The Police car was parked across McLean Street like they were blocking the road.

The offender was between myself and the Police car.

One of the Officers, the taller one, aimed the pistol at the offender.

I can't recall what dialogue took place between the Police and the offender.

The offender began walking straight towards the Police. He looked like he was staunch and bullet proof. He was walking towards the unarmed shorter Policeman.

The offender walked over to the right hand side of the road towards the shorter Policeman. The offender may have smashed another window at this point.

I decided to leave and get my passengers home, as the taxi tariff was building up.

I turned into a side street going to the right - I possibly did a u-turn away from the action.

I then dropped my passengers on Leslie Street.

On my way to Leslie Street I think I turned into Domett Street and came back up onto McLean Street.

I then would have turned right back on to McLean Street and headed towards the bridge.

As I pulled out of Domett Street I was aware that I was quite close to the Police Officers and the offender.

I saw the offender, he was on the left hand side of the road on his hands and knees in a foetal position.

The Police Officers were fairly close to him.

It looked like someone was fairly close behind him, I couldn't tell what Officer it was.

Someone was standing more over the offender.

Initially when I came to the corner of Domett and McLean Street I was looking down the McLean Street to my left expecting the Police and the offender to be some distance away. As I pulled out on to McLean Street I got a quick glance of where they now were.

I travelled about two blocks/intersections away from where I had initially been.

I thought that the Police had pepper sprayed the offender.

I did not see where any of the weapons were. I didn't see the offender in possession of the baseball bat when he was on the ground.

I couldn't tell if the Police were still pointing a gun at the offender.

When I first arrived at this incident I did notice a car in the middle of the road, near the offender. The driver's door of the vehicle was open. It looked like a black sports car.

I don't recall the offender being in the car or going to it.

I did not see anyone else with the offender apart from the Police.

When I saw the offender he appeared to be only in possession of a baseball bat.

When he was confronted by the Officers he held the bat in his right hand, hanging down by his side.

I would not have approached the offender that night, he was too dangerous holding a weapon and totally enraged.

My passengers did not approach him. They did not get out of the van.

After dropping my passengers off I came back over the bridge and went down Queen Street and along a back street and on to Nelson Street and then on to the State Highway.

I then went back to New Plymouth and finished my Shift.

I finished about 4.30am.

I have read this Statement and it is true and correct to the best of my knowledge.”

8.28 **Witness 3**

Witness 3 lives [*Deleted] in McLean Street. The point where Steven WALLACE was shot is [*Deleted] and to that extent it is considered he had a very good [*Deleted] view of the incident.

As far as has been established, with the exception of Witness 4 (paragraph 8.26, Witness 3 is the only independent witness outside of Constables B and C to the actual shooting. Other witnesses, including Witness 6, saw events leading up to and/or immediately following the shooting but they did not actually witness the shooting. Witness 3 was certainly the closest to the event as Witness 4's view was approximately 115 metres distant to the point where WALLACE was shot.

In his statement, refer **TAB 28**, Witness 3 records:

*“My full name is Witness 3. I live at [*Deleted] McLean Street here in Waitara.*

*Home phone is [*Deleted], work is [*Deleted]. We own [*Deleted].*

*I am [*Deleted] years of age, born [*Deleted].*

I live here with my wife Witness 6.

*I am speaking to Detective Blair Burnett from the New Plymouth CIB regarding an incident [*Deleted] earlier this morning. [*Deleted].*

*We have had this [*Deleted] for about [*Deleted] years.*

*[*Deleted]*

Last night I went to bed before the finish of the Crusaders rugby game. It was a bit before 9pm.

I was in bed when I heard a noise, a bang, bang. I looked at my watch, it was 4am so I might have been woken a couple of minutes before.

*I looked [*Deleted] McLean Street and I saw a guy standing on the road.*

I thought he had a gun in his hand.

He had a man's voice, he was looking towards Peter BUDDENS chemist shop yelling, my ears are not the best but he seemed in a rage. The tone of the voice was obscenities and that.

He seemed to be crazy to me. I told Witness 6 to ring the Police. Nothing really stood out about the clothing he was wearing other than it appeared to be dark.

He had what looked to be a gun, he was only about 10 metres away and from the noises I heard I just thought it was a gun, I wasn't sure. The 10 metre was from Peter Buddens.

He seemed to point it at the building.

He then went to the front doors of Peter Buddens chemist and played or did something to the doors.

Peter Buddens chemist is on the corner.

He then went to a car that was parked facing into the main doors, they are on an angle across the corner.

The car was facing the doors.

He went to the boot. I can't remember if it was open or not, he got something out of the boot or the car, like a bar or some other implement.

He then attacked the windows all over the place. I don't really recall which ones first.

*At this stage I was still looking [*Deleted].*

He then disappeared as he came over to this side of the street.

*I told Witness 6 [*Deleted], I didn't want him seeing us. When he was out of sight I left [*Deleted] and went next door to a [*Deleted] to see where he was.*

I heard more smashing below but still couldn't see him.

Next thing I see him run back across the street from my left he ran across to the sports shop and started smashing the sports shop window and also the window to the mobility aid shop. Peter Budden has little walkers, bed pans in it, it's just a show room.

He, the guy, had a weapon of some sort in his hand and had used it to smash the windows. I actually thought that it was like a jemmy bar, it was (shows 3 feet – 4 feet) 3-4 feet long. When he hit the windows they stayed smashed.

It could have been a baseball bat, I don't know, something about that length.

He then went back to his car and drives off.

His car was very dark, maybe black model, no idea, maybe 2 litre, not that big. A four door sedan I'd say. In the light it looked a plain dark car.

He drove off towards New Plymouth, down the main street.

He got up towards the BP Station, I think. I couldn't really see the station but I know he didn't go further because I heard more windows smashing.

I couldn't hear him yelling then.

I don't recall seeing any other cars or people except Witness 14 who lives just down the road at the restaurant, he's got fish and chips and that.

I believe it was Witness 14, he followed him up the road, but not immediately on his tail.

I was still looking at the window. Witness 6 was beside me giving the Police a commentary as to what was going on.

Then the cavalry arrived, one car came from alongside the Police Station and shortly after another came from McLean Street end.

Lights flashing, no siren, no I don't remember sorry.

The next time I see him he is walking back from the Church area, the Church is called "His place".

He was walking from my wide of the road towards the other side, still holding something in his hand. He walked towards the Police.

The Police had one car in the intersection of McLean and Domett Street, the other was Grey Street & McLean Street.

I recognised Constable A, he was standing on the other side of the road I presume he came in one of the cars.

I never saw or can't remember seeing anyone get out of the car, the Police car.

I remember seeing Constable A on the other side of the road, I'm not sure about any other Police. I was watching this guy.

This guy walked towards Constable A.

I'm not sure what was said by Constable A but I heard Constable A tell this guy to "stop" and that "I'm armed", that's the guts of it.

The guy had this weapon in his hand, his right hand. I saw it was in his right hand.

He was yelling general obscenities at Constable A. I couldn't pick exactly what was said. He appeared to be mad to me.

At this time Constable A was standing towards the middle of the road going towards this guy and the guy was walking towards Constable A.

Constable A started backing up to the edge of the footpath, he had a pistol. I saw him take it out, it looked like he was taking a pistol out, to me anyway.

He might have said again he was armed again. I'm not sure what was said. The guy was still coming at Constable A, yelling and carrying on.

Constable A fired a single shot. To me it looked like a warning shot. It was the angle of Constable A's arm or gun made me think that.

After that shot the guy didn't stop, he kept towards Constable A yelling and menacing him with the object, whatever it was.

He sidled around to my right or it would have been Constable A's left, it was like two guys in a boxing ring. He appeared to sidle around to get a better shot at Constable A.

Then Constable A fired about 3 shots at him and he fell down on the road.

When Constable A fired I think he would have been about 4 or 5 yards away.

The guy tried to get up and another Policeman who must have turned up told him to lay still.

The guy was still yelling but not as much now.

The Police kept with 2 or 3 yards from the guy. They might have had a cursory look but he stayed on the road until the ambulance got there.

I think the whole thing may have taken about ¼ of an hour or 20 minutes.

The ambulance was maybe another ¼ of an hour.

I think the ambulance got there about 20 to 5.

*I remember turning the TV on, one game of rugby had finished, the other hadn't started. I might have been making a cup of tea. [*Deleted]. The ambulance was there.*

I never saw Witness 14 personally, sorry that's what Witness 6 had told me. I told you earlier I did but that's Witness 6 who saw him.

I never saw Witness 14 at all, even afterwards.

*I know Constable A as a local, [*Deleted], both personal and Police business.*

When Constable A fired the shots you could see the flashes of the gun so I guess I would have been looking pretty much straight at it.

The guy would definitely have had a go at Constable A or any other cop that's for sure. He certainly wasn't pussy footing around. He wouldn't have been going to shake Constable A's hand.

After the ambulance had gone off Witness 6 and I went downstairs to the front to see what damage was done to us.

I saw car windows were smashed, then a Policewoman told us we were in a crime scene so I told her who we were and where we would be.

I think she was a bit dumbfounded as to where we came from.

We came back upstairs.

I have read this statement and is true and correct."

FURTHER STATEMENT

*"This is my full name. I was born on [*Deleted] and live and work at [*Deleted] McLean Street, Waitara, phone [*Deleted], work [*Deleted].*

I am talking to Detective Sergeant Lewis SUTTON about my observations on the morning of Sunday 30 April 2000.

I have previously made a Statement to a member of the Police and this is some additional information.

*My wife Witness 6 and I [*Deleted]*

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When I first saw the victim, the person who was shot, he was in a rage. He was yelling. I couldn't understand anything he was saying. When the victim was approaching Constable A I am not sure of how he was holding the bat but it definitely was not down at his side.

After Constable A fired the warning shot the victim kept approaching in a menacing way. By that I mean he was going forward towards Constable A.

He was going forward in an angry aggressive mood.

The first time I saw the woman Constable, Constable C, she was moving towards the patrol car. She put rubber gloves on her hands. She had a pad of some sort and she went to the victim and placed it on the wounds.

It seemed about 5 minutes plus before Constable C placed the pad on the victim. It was only after he calmed down and laid still that this occurred.

I can recall when the victim was on the ground that Constable B asked him if his name was ? I can't recall the name he used but Constable B asked him using a name.

Constable B was also telling the victim to settle down, calm down and lay still.

These last couple of points I made have come to me since I made the first Statement to Police. I didn't think of them at the time."

8.29 **Witness 6**

Witness 6 is the wife of the Witness 3 and resides with him. Unlike her husband, she did not witness the actual shooting which occurred just as she was [*Deleted], having telephoned the Police.

In her statement, refer **TAB 29**, Witness 6 records:

*"My full name is Witness 6 and I live at [*Deleted] McLean Street, Waitara. My phone number is [*Deleted] hm, [*Deleted] wk. My date of birth is [*Deleted]. I am [*Deleted].*

I am speaking to Detective Constable ASHTON in regard to an incident which occurred here in Waitara this morning.

I live here with my husband Witness 3. There was just the two of us here last night. I watched the Hurricanes game on TV and then I went to bed. Witness 3 was already in bed.

I was woken to loud bangs. Witness 3 woke up at the same time. I think our feet hit the floor at the same time.

They were just bangs. It sounded like someone hitting something.

*I looked [*Deleted]
Waitara. [*Deleted]
Peter Budden Pharmacy.*

*The [*Deleted] the time.*

*When I looked [*Deleted] there was a black four door car parked up very close to the doors of Peter Budden Pharmacy. The front of the vehicle was about 1 ½ to 2 metres away from the double doors.*

The lights were on in the vehicle. I don't know what type of vehicle it was as I'm not very good with vehicles.

I noticed a guy wielding some form of bat or bar or something. It was about the length of a bat or something.

He was hitting the window at peters when I first saw him. It was the window beside the photo developing which is the one on McLean Street. The window broke.

*Witness 3 said, "Ring the Police and [*Deleted]. I believe he's got a weapon".*

*So I went [*Deleted] and dialled 111. Got through. They asked me what was happening. She asked me if I could [*Deleted] say what the guy was doing. [*Deleted].*

At this stage he was hitting Pro Sports and Inva-Care which he smashed both these windows.

Then he moved back around the corner and smashed the window of peters on the Dommett side of the street.

The operator then asked me to describe him. He was wearing light trousers, a dark top and he had short hair.

While I was describing him he got back into the car I don't know if the motor was running or not. He backed out onto McLean Street and drove down McLean St like a bat out of hell.

As he drove off the boot of the car flew up. He was travelling really fast. I couldn't read the number plate.

I thought that his car had a flat tyre which is what I told the operator. I presumed this from the noise the car was making as it was driving off.

He drove down pas the BP Petrol Station. He got down to just before the Cracraft Street corner then he turned around and came back.

*He stopped at the block of shops at 62 McLean Street. [*Deleted].*

He parked the car right at the southern end of the block of shops at the curb. He then smashed the windows of these shops. I heard at least 3 windows break.

*He then got back into his car and he started to turn as if to go back to New Plymouth. The vehicle ended up on an angle towards Major Colours Decorating Shop. I didn't see him get out of the vehicle. The operator told me that the Police were on their way [*Deleted], to ring Peter Budden to tell him he had some broken windows.*

*When the vehicle first left Peter Budden a black car followed the other vehicle. It followed him down but kept at a distance. I've since found out it was Witness 14, from [*Deleted]. Witness 14 told me this after everything had happened.*

*I went to use the phone [*Deleted]. When I finished talking to Peter I started looking for another number, [*Deleted], who owns [*Deleted].*

Witness 3 yelled out to me while I was on the phone that the Police had arrived.

*I couldn't find the number for [*Deleted] so I started to walk back towards [*Deleted]. As I walked back I heard the bags and then I smelt the gun powder. I know the smell of gun powder because it gives me a migraine.*

I don't know how many shots I heard.

*[*Deleted]. I saw the guy who had been smashing the windows lying on the ground in the middle of the road [*Deleted].*

He was cursing and making a lot of noise. He was moving very vigorously at first.

When he was smashing the windows he was yelling and cursing as well. I couldn't pick up exactly what he was actually saying but he was making a lot of noise.

*Constable A who I know is a Policeman in [*Deleted] was standing on the parking white lines. The guy was lying right on the centre line. Even though it was dark I knew it was Constable A.*

There was another Policewoman at the corner sitting in her vehicle. There was another moving towards Constable A. This guy was in uniform but Constable A wasn't.

Constable A had dark trousers on and lighter colour skivvy or something like that.

I could hear other Policemen further down the street towards New Plymouth but I couldn't actually see them.

At this stage Constable A was standing still. He was telling the guy to stay still. Constable A didn't move from the spot where he was standing for a good ten or fifteen minutes.

Everyone sort of stood around watching the guy on the road. He was still being very vocal but he slowly quietened down.

It took him 5 or 10 minutes before anyone actually approached him. By this stage other Police had arrived.

The place where Constable A had been standing had been marked so he moved back onto the footpath.

One of the female officers put a pad or something on the guy's shoulder and then they put a rug on him. By this stage the first ambulance had arrived. Then another ambulance showed up along with the paramedic from Waitara.

They were all working on him at this stage. He was still moving when the Policewoman put the pad on his shoulder.

I didn't recognise the guy who was smashing the windows.

From the first time I saw him by Peter Budden to when I saw him lying on the ground it would have been about 10 or 15 minutes.

The guy was obviously worked up about something. His rage was absolutely incredible.

The ambulance worked on him doing resuscitation and putting in IV into him and that before the ambulance took him away.

*[*Deleted]*

*[*Deleted].*

I think he must have done this while I was on the phone to Peter Budden.

*The Police told us to go [*Deleted] which we did.*

I have read this statement and it is true and correct.”

8.30 **Witness 18**

Witness 18 was also an occupant of the [*Deleted] driven by Witness 16. She and a friend had spent the evening in New Plymouth and at about 1.00 am she met up with her brother Witness 17 at The Mill and arranged to get a ride back to Waitara.

In her written statement Witness 18 describes Steven WALLACE walking up (McLean) Street carrying a grey bat in one hand and something else in the other. She further describes WALLACE running towards their vehicle with the bat raised as if he intended to hit the car. She records, “*Steven looked wasted. He looked like he was worried about something.*”

Witness 18 then describes Witness 16 turning off McLean Street and parking just around the corner into Grey Street. At this time she reports seeing Steven WALLACE and a Police Officer in the vicinity of Major Decorating, ie close to the McLean Street/Grey Street intersection. She then reports that Steven was chasing a person, whom she thought was a Police Officer, along McLean Street. She further records seeing a Police Officer pointing a gun at Steven and says that Steven was yelling and swearing and the Police were also yelling.

Witness 18 then states that she “saw the cop shoot four times” and “saw Steven drop to the ground”.

In her first written statement Witness 18 records:

*“My full name is Witness 18 and I live at [*Deleted], Waitara. My phone number is [*Deleted]. My date of birth is [*Deleted] and I am [*Deleted] years old. I am a [*Deleted].*

I am speaking to Detective Constable ASHTON in regard to an incident which occurred in Waitara on 30/4/00.

*I live at [*Deleted] with [*Deleted] Witness 19 and [*Deleted], aged [*Deleted].*

*On Saturday night Witness 19 went into New Plymouth at about 7 or 8 o'clock. He went with his mate [*Deleted] someone and [*Deleted]. They went in [*Deleted] car.*

*I went in about 11.00pm with my neighbour [*Deleted]. We went in [*Deleted] car.*

*I rang Witness 19 on his cellphone to find out where he was. He was at the Icons Bar. [*Deleted] dropped me off and my friend [*Deleted] off at Icons and then came home again.*

We had a few drinks and visited a few different places in town.

Once I got into town I stayed with Witness 19 all night. He said he'd seen Steven earlier before I got into town. I never saw him in town.

At about 1.00am I saw my brother Witness 17 at the Mill. I asked him how he was getting home. He said he'd find us a ride.

*We stayed at the Mill till closing. I was with Witness 19 and [*Deleted]. The Mill closed at 3am.*

We were outside the Mill for a while. He said he'd talk to Witness 15 and see if we could get a ride home with him.

We were standing around for a while then we ended up walking down the street.

*We were standing at the Taxi Stand by Hannahs when Witness 15 and Witness 16 came along. [*Deleted] jumped in as well.*

*I was sitting behind the front seat passenger Witness 17. [*Deleted] was in the middle and Witness 19 was behind the driver.*

I think we left New Plymouth at about 3.30am. Witness 16 was driving and its his car.

We drove into Waitara along McLean Street.

I saw a car parked right up close to Peter Budden chemist. The car was dark blue I think and shaped like an old Honda Civic.

I thought at first it actually driven into the doors by the chemist.

Then I saw a guy walking up the street carrying a grey bat in one hand and something else in the other hand.

Witness 19 was saying "Steven, it that Steven".

We slowed down then the guy started running towards us. I thought he was going to hit the car with the bat. He had the bat up in the air like he was going to hit us.

I couldn't really see his face. Witness 19 said it was Steven.

Witness 16 accelerated really quickly to get away from him.

We drove up the street and turned around and came back.

As we were turning into Peter Budden corner which is Domett Street Steven started running towards us again.

Steven looked wasted. He looked like he was worried about something.

Witness 16 drove off quickly again then we went down Bank Street and we could see him smashing the Peter Budden windows with the bat.

*We dropped [*Deleted] off on Bank Street at his house.*

We then drove up Queen Street to the roundabout. As we came along McLean Street I could see a cop car parked in the middle of the road at Grey Street.

We turned into Grey Street and stopped the car just around the corner. I stayed in the car.

As we came along McLean Street I think I saw Steven and another cop along by Major Decorating.

I wound down the window. Witness 19 got out. I don't think anyone else did but I'm not sure.

I saw Steven chasing someone. I saw them come from the decorating shop area, and go along McLean Street.

The person he was chasing was running. I think it was a cop in uniform that he was chasing.

Steven was walking really fast after him. He was carrying the bat and something else.

Then I was watching this lady running around in the bushes of the brick house on the corner.

Then I looked around and saw a cop standing by the Police car in the middle of the road just behind us.

He was telling us to fuck off and go away.

I saw Witness 19 walking towards McLean Street. I was yelling at him to get in the car.

Then I saw the cop that was by the car pointing a gun towards Steven. I could still see Steven.

I could hear Steven yelling and swearing and I could hear the cops yelling but I don't know what they were saying.

By this stage I was really yelling at Witness 19 to get in the car. Witness 19 started walking back towards us and then I saw the cop shoot 4 times.

There was a bang, a gap and then 3 quick bangs. I saw Steven drop to the ground. I was still in the car.

I couldn't see any other persons besides the cop, beside the Police car and Steven.

When Steven fell I couldn't see the bat or the other thing he was holding.

Then Witness 19 hopped in the car and we drove around the block to come back into Domett Street. We went to see if he was alright.

I saw 2 cops beside Steven. He looked like he was hopping up on his knees. He looked like he was alright.

Then we drove off and Witness 16 dropped us at home.

When Steven went up the road he walked straight past the cop standing behind us.

Steven was looking at the person he was chasing. He didn't even look at the cop."

Witness 18 indicates that she witnessed the above activity while sitting in the car which was parked on Grey Street on the north eastern side of the intersection with McLean Street.

Witness 18 has been re-interviewed to clarify exactly what she saw of the actual shooting incident. It is apparent, following a further visit to the scene, that she had a view of the area of the actual shooting approximately 60 metres distant from diagonally across the top of a 4 foot fence. This fence bounds the property occupied by the witnesses Witness 10 and Witness 11. Witness 18's second statement discloses:

*"My full name is Witness 18 and I live at [*Deleted] Street, Waitara, [*Deleted]. My date of birth is [*Deleted] and I am [*Deleted], I am a [*Deleted].*

I am speaking to Detective Constable BORRELL in regard to an incident which occurred in Waitara on 30/04/2000.

I have already made a statement and this is in addition to that statement.

When we parked in Grey Street that night watching Steven WALLACE and the Police, we were parked on the eastern side of Grey Street opposite the Major Decorating shop facing towards the SH3 bypass. We were on the bypass side of McLean Street.

I have been shown a map by Detective Constable BORRELL and we have marked with a cross where the car I was in would have been parked and an arrow showing the direction we were facing.

I was sitting in the back seat of the car on the passenger side beside the kerb, behind the front passengers seat.

When we parked up on Grey Street I saw a Police car parked in the intersection of Grey Street and McLean Street, I don't know if it was there when we drove through the intersection but I remember it being there when we were parked up.

I have marked on the map a circle with a '2' in it where I think that Police car was.

I didn't see any other Police cars at that time; I only saw other Police cars after we drove around the block after it all happened.

I said in my first time I heard the four shots go off, at the time I heard the shots go off I was looking at the people running around in the bushes in the house beside where we were parked.

As I heard the shots I looked around to see what was happening and saw Steven fall.

I could see the top half of Steven over the top of the fence of the house we were parked outside and I could also get a clear view through the gate as well.

At the time of the shooting I thought it was the tall cop in uniform that was standing behind us by the car I marked as '2' as the one who had done the shooting as he was the only one I saw with a gun.

The other cop I saw was shorter than the first cop and when I saw him Steven was chasing him up McLean Street to up between Peter Budden's and Witness 6's.

During the shooting the car I was in remained parked where I have marked it on the map, we drove off after Steven had been shot.

*When the shooting occurred my boyfriend Witness 19 had hopped out of the car and the tall cop was yelling at him saying, "You guys in the [*Deleted] fuck off", so Witness 19 would have had a good view of the shooting and my brother Witness 17 who was in the front passengers seat would have also seen what happened.*

I have marked on the map with a '3' where I believe Steven was when he fell after he was shot.

I can't recall seeing the shorter cop, who Steven had been chasing, at the time of the actual shooting.

I have marked with a '4' where I think the tall cop was at the time that the shooting occurred.

POST SHOOTING TELEPHONE CALLS BY CONSTABLE A

Following the shooting, Constable A made three telephone calls on his cellphone - one to the New Plymouth Police Station to obtain a colleague's telephone number and two calls to Police Armed Offenders Squad colleagues, Witness 12 and Witness 13.

8.31 Witness 12

*[*Deleted].*

*Witness 12 is, along with Witness 13, one of the [*Deleted] on the New Plymouth Armed Offender's Squad.*

*[*Deleted].*

In his statement, refer **TAB 30**, Witness 12 records:

*"My full name is Witness 12. My date of birth is [*Deleted] and I am [*Deleted] years of age. I live at [*Deleted], New Plymouth, phone [*Deleted].*

*I am currently employed as a [*Deleted] with the New Zealand Police based in the New Plymouth Criminal Investigation Branch.*

*[*Deleted].*

I am making this Statement to Detective Constable Sue ASHTON of the New Plymouth Police.

*[*Deleted].*

At about 4.10am on Sunday the 30th of April 2000 I was asleep at home when I was woken by a phone call on my home phone.

I answered the phone and said, "Witness 12 speaking".

*He said, "[*Deleted] I have just shot someone". I knew it was Constable A speaking because I recognised his voice.*

I said, "Where?"

He said, "Waitara".

I said, "Who was it?"

He said, "Witness 2".

I said, "Is he dead?"

He said, "No, but he could die".

I said, "Where are you?"

He said, "Waitara Main Street".

I said, "Stay there. I'll get there as soon as I can".

He said, "Okay".

I also recall asking him if he was okay. He sounded okay.

The call ended.

I got dressed in casual clothing and went to the toilet.

*Probably less than two minutes later I received a phone call from Constable [*Deleted] stating there had been a shooting involving Constable A. Sergeant PRESTIDGE has control of the scene. The staff involved are at the Waitara Station.*

*I told Constable [*Deleted] that I was coming in straight away. I got changed into a collar and tie after having a brief wash.*

Approximately four minutes later I arrived at the New Plymouth Police Station to uplift a Police vehicle.

I spoke briefly to Inspector KNOX and requested that she deal with the media in relation to this incident.

I spoke briefly to Dog Handler Mike SANDLE. I recall very little of the conversation we had, except that Constable SANDLE asked me if he could assist in any way.

I then drove immediately to Waitara and went past the Police Station and parked opposite Peter Budden's Chemist on Domett Street.

*I got out of the Police vehicle and walked over to the scene. I stepped under the tape and took a few steps and spoke briefly with Constable [*Deleted].*

At this point I noticed that an ambulance was parked in the middle of the road about 20 metres from where I was standing. It was just leaving and drove off.

I was then approached by Sergeant PRESTIDGE, who was already in the scene. She told me what she had done to this point, which included assisting with ambulance staff and cordoning off the scene.

*I said I would get staff down to her as soon as I could to relieve her and Constable [*Deleted].*

*I instructed Constable [*Deleted] to get the names of those persons who were standing outside the cordon and at this point Constable [*Deleted] and I went under the tape out of the cordon.*

There were at least four men, two of them were older gentlemen who were walking off towards the Police Station. I spoke briefly to one of them who had a big nose and I asked him what he saw and he told me he didn't see anything. I asked him for his name and he said I didn't need his name.

*Constable [*Deleted] got his name and he has since been interviewed.*

I walked to the Waitara Police Station where I saw Constable A and Witness 13 in the meal room at the Waitara Police Station.

I said good morning to them both and went up to Constable A and shook his hand and asked him if he was all right. He said he was.

Witness 13 said that he would remain with Constable A and I said that I would arrange for someone to have Constable A interviewed and this would be done in New Plymouth.

*Constable B was also in the Waitara Police Station in the main office. Sergeant O'KEEFE and [*Deleted] were also there.*

While I was in the meal room with Witness 13 and Constable A I said to them that I would like to have Constable A interviewed. Witness 13 agreed that that is what we would do.

It was at this point that Witness 13 showed me where Constable A and Constable B's firearms were.

They were in the Waitara Police Station store room.

Constable A's was on top of the middle console and Constable B's was in the firearms cabinet.

These were then left in the store room which was secured and locked.

At this point I made arrangements to call staff out and I called out Detective ADLAM and Constable ISAACSON who were the weekend CIB on-call. Their task was to take over from Sergeant PRESTIDGE at the scene and do a preliminary scene examination.

I then arranged for Detective Constable HOPKIRK to be called out to deal with the victim and relieve Constable C who had gone in the ambulance with the victim.

I then arranged for Detective Sergeant BRYAN, Detective IRVINE and Detective THORNE to be called out and Detective LILLEY and Detective BURNETT, with a view to have Detective Sergeant BRYAN interview Constable A, Detective IRVINE to interview Constable B and Detective THORNE to interview Constable C.

I passed this information on to Witness 13 and Constable A and at about this stage Witness 13 and Constable A left the Police Station. They were going to use my patrol car, which was the CIB Administration Commodore.

*At 5.25am on that morning I was at the Waitara Police Station and answered the phone. The caller asked whether there had been an incident involving Steven WALLACE of [*Deleted] Broadway, Waitara, phone [*Deleted]. I asked the caller for his name. He said his name was [*Deleted] aged [*Deleted] years [*Deleted], Waitara phone [*Deleted]. He said he was [*Deleted] years of age and his mobile number was [*Deleted].*

I told him that I was not aware of any incident involving Steven WALLACE but did confirm with him that an incident had occurred in the main street and that if Steven WALLACE was involved, I would ring him back. He said, "Could you ring me back at either one of the phone numbers".

Prior to Witness 13 and Constable A leaving I was trying to establish the identity of the victim in this matter. Constable A was certain it was Witness 2, however Constable ROSS brought a QVR Response of a vehicle parked on the main street, which was suspected to be involved in this incident, and that registration showed the name of Steven James WALLACE.

I then rang the Taranaki Base Hospital and asked for the A&E Department and spoke with Constable C. I told her that she would be relieved by Detective Constable HOPKIRK when she arrived and asked her to check the pockets of the victim for some identification. She stayed on the phone and came back to me saying she had found some cards in the jeans pocket in the name of Steven James WALLACE.

*I rang [*Deleted] back on [*Deleted] and informed him that Steven WALLACE was involved in an incident in the main street of Waitara and asked him who his parents were. He said they were Witness 5 and [*Deleted] [*Deleted]. I told him that someone would be in touch with him later in the day.*

Constable ROSS then found some photographs of Steven WALLACE and placed them on the table in front of me and Constable ROSS indicated that he had shown them to Constable A and to my knowledge, he said that that person could have been the person he shot.

Detective Sergeant BRYAN, Detective IRVINE and Detective THORNE were given instructions to remain at the New Plymouth Station to complete those interviews of Constables A, B and C.

*At the Waitara Police Station that morning I made a few notes on the conversations I had with Constable A and the brief conversation I had with Constable [*Deleted] on the phone before leaving my home at about 4.15am. I have known Constable A for over 15 years, having worked closely with him on Section and on the Armed Offenders Squad for 12 years and have never doubted his judgment or decision making ability. His decisions are always based on sound judgment."*

8.32 **Witness 13**

Witness 13, [*Deleted].

He has served on the AOS with Constable A for over 13 years.

Witness 13, along with Witness 12, received a cellphone call from Constable A soon after the shooting. His statement not only confirms that particular contact but records the AOS training regime undertaken by Constable A in recent months, together with Constable A's experience and reputation as an AOS member.

In his statement, refer **TAB 31**, the Sergeant records:

*"My full name is Witness 13. I am [*Deleted] years of age born on the [*Deleted].*

*I currently reside at [*Deleted], New Plymouth with my wife and family, home phone [*Deleted], work [*Deleted], mobile [*Deleted] and pager attached to mobile.*

*I am employed as a [*Deleted] with the New Zealand Police, a position I have held for 13 years.*

I have been with the Police for 24 years.

I am speaking to Detective Blair BURNETT from the New Plymouth regarding an incident that occurred in the early hours of the morning at Waitara on Sunday the 30th April 2000.

This incident involved Constable A who shot a man in McLean Street at Waitara.

I have known Constable A for the last 13 years, he was a Constable on my Section when I arrived to New Plymouth on promotion to Sergeant.

Constable A was a member of the Armed Offender Squad having joined in January 1986.

*He worked on my Section and was still a member of my Section with I joined [*Deleted].*

*[*Deleted].*

Both Constable A and myself have been members of the Squad until this very day.

*[*Deleted] and Constable A is currently the longest serving member of the New Plymouth AOS Squad.*

During the time we have been involved in the AOS the Squad has dealt with numerous incidents involving firearms, armed robberies, stakeouts, domestic violence, disorder, search warrants, suspicious persons and a host of other incidents.

On most occasions firearms are drawn and presented at persons or targets involved.

[*Deleted]

On several occasions operationally and in training Constable A has acted as an Officer in Charge of one of the Sections of the Squad.

He is regarded as the best marksman with all weapons on the Squad, having been to a past competitive? pistol shooter and one of two specialist snipers in the New Plymouth Squad.

Constable A was one of four members of the AOS Squad including myself who were involved in a Bank stake-out at the old Moturoa PostBank here at New Plymouth where shots were fired by the offender and members of the Squad.

As a Squad we train 12 days a year and cover a variety of scenarios, tactics, including Arms Training, First Aid Training, Use of Force training and scenario practice.

The most recent training the Squad was involved in was on the 27th and 28th of April 2000 at a full day's range training including the National AOS Glock weapons qualification shoot in which Constable A scored maximum points (reference AOS folder New Plymouth).

The same day Constable A also passed the qualification shoot with the 7.62 millimetre sniper rifle.

The National AOS Glock Qualification shoot involves shooting of a series of targets from various distances and positions including standing, prone, kneeling, shooting from cover using both the master and non master hands. Also undertaking magazine change operations under stress conditions.

This shoot is a mandatory qualification from all AOS members in New Zealand and is required to be undertaken annually but in New Plymouth we undertake this shoot up to six times yearly.

The details of the specifics are held in the AOS folder.

The qualification shoot involving the 7.62mm rifle involves a shoot starting from 200 metres and moving in in various positions including prone, sitting and standing up to a distance of 50 metres.

Constable A was top scorer in the rifle shoot. This shoot has a pass mark of 38, Constable A scored the top possible mark of 48.

This pistol and Glock training along with the rifle training was conducted on Thursday the 27th April.

On Friday the 28th April in the morning an exercise involving offender armed in a motor vehicle in a rural area who then moved to a dwelling where he concealed himself.

As with all AOS exercises and Operations the Squad was briefed by the O/C prior to going into the field.

*On this occasion I was present but the O/C was Witness 12 as I am currently preparing [*Deleted].*

Covered in this briefing was Fire Orders which include aspects of General Instructions F61 and the Crimes Act provisions relating to the use of force and the practical instructions relating to the current scenario.

Constable A was tasked as a leader of one of the two Sections in the field.

This exercise culminated in the shooting and wounding of the offender followed by the arrest using a Police dog attack.

As in all AOS exercises and real life situations and operations tactics of voice appeal were undertaken prior to the offender actions that necessitate the use of force.

Because this scenario involved a shooting the recognised post shooting procedure was also undertaken. This involves members where possible, holding their positions so that a proper scene examination can be undertaken. The member need to be able to identify the position he was in when the shooting took place.

Following this exercise a series of building clearing exercises were undertaken of the dwelling, once again standard procedure at the end of an operation is to clear the building and declare it safe for other people.

We cleared the building several times just as extra practise.

In the afternoon the Squad returned to the range base or camp and a training session was held whereby we sat in a group and discussed the conditions that needed to exist before an offender could be shot.

We discussed these conditions in relation to General Instructions and the Crimes Act Sections relating to the use of force.

We referred back to a training day all staff had undertaken late last year which involved each member undertaking a written test of their knowledge of these Sections and conditions.

We then reinforced that members had a practical knowledge by discussing scenarios and situations whereby the shooting of an offender would or would not be justified.

Afterwards the Squad returned to the AOS rooms, cleaned and cleared firearms, packed up and went home.

At about 4.15am on Sunday the 30th of April gone I received a phone call at my home address from Constable A informing me that he had just shot someone.

He said, "It's Constable A, I've just shot someone".

I said, "When?", he said, "Just now, he's lying on the ground in front of me, he's not dead".

I said, "Who is it?", he said, "It's Witness 2. I've already rung Witness 12 and told him."

I said, "Are you okay?", he said, "Yes, he was coming at me. I had to shoot him".

I said, "Where are you?", he said, "I'm in the main street of Waitara".

I said, "I'll come out", that was it. I hung up.

*I got out of bed and the phone rang, it was from the Station. I'm not sure who, they asked if I wanted a ride out there. I said "Yes" and [*Deleted] would*

[*Deleted]

pick me up. He did and he took me to the Scene on McLean Street in Waitara.

On arrival Sergeant PRESTIDGE was present, an ambulance, two ambulance staff were attending to a male person on the street lying on his back.

Constable C was doing chest compressions and Constable B was standing holding an intravenous fluid feeder.

We parked at the New Plymouth end of McLean Street. I walked through the scene to the incident location.

I asked Sergeant PRESTIDGE where Constable A was. She said "At the Station".

I walked to the Waitara Station. I didn't take particular notice.

However, I did ask the two Constables if they were okay. Constable B said "Yes", the other Constable was continuing chest compressions.

I did notice that there was what appeared to be a shirt or some other type of clothing next to the person on the road and that he had what appeared to be a bullet hole in his chest in his left side as I've seen bullet holes before.

At the Waitara Police Station I spoke to Sergeant O'KEEFE at the front and found Constable A assisting him putting emergency tape around the Station itself.

I saw numerous windows in the front of the Station were broken. That there was a small white bucket and golf balls there.

I saw a golf club outside the front door on the footpath, I think it was broken.

Constable A and myself went to the rear of the Police Station and once again I noticed numerous windows broken around the building, also the front passenger window of the green Commodore was broken.

We went into meal room, sat down made a cup of coffee.

Constable A told me that "The guy was going to attack me, he was going to belt me with a baseball bat. I warned him, I told him I was armed. I cocked the weapon in front of him. I had already backed up 50 metres with him chasing me. I fired a warning shot into the air, it made no difference.

He kept coming, I kept telling him I'm armed. I said, "Witness 2 it's Constable A, I'm armed". I said "We can talk about this". He came at me with the bat up over his head. He was saying he was going to do something to me."

Constable A couldn't remember exactly what he was saying but said he knew he was going to do him some harm.

He said, "I shot him instinctively three times in centre mass". Constable A said that he fell on the ground and then started getting up again. He said, "I held my position and then that's when I phoned Witness 12 and you".

He said, "I phoned you guys, I wasn't going to leave my spot until someone had marked it'.

I asked Constable A where his weapon was. He took me to the safe room and showed me his duty belt which had holstered Glock, radio pouch. I can't remember that there was other equipment.

I saw that it was secure, we went back to the meal room and Witness 12 had arrived.

I spoke with him, borrowed the keys to his Police vehicle and took Constable A home to get more clothes and to inform his wife what had happened.

I suggested we drive away from the scene and check the Fire Station on our way to his address.

On driving past I noticed that there was a golf club lying on the forecourt and that several windows had been broken across the front of the Fire Station.

I reported this by radio to Witness 12.

We got to the house, told Constable A's wife what was happening after he had spoken to her alone.

*We went back to the Station, spoke with Witness 12 before Constable [*Deleted] transported myself and Constable A into the main Police Station in town.*

We came to the CIB floor and Detective Sergeant BRYAN was here. He said he had been assigned to interview Constable A.

After a short discussion with Detective Sergeant BRYAN, Detective Sergeant BRYAN contacted Lawyer Susan Hughes at Constable A's request and she arrived and spoke with Constable A in private.

She spoke for a short time before advising that Constable A was prepared to make a written Statement.

I left the parties involved to take the Statement.

Once the Statement was taken I helped arrange welfare for Constable A and his family.

One thing I forgot to mention was whilst at the Waitara Police Station with Constable A, Constable ROSS came to us with a photographs of a person that they believed was the victim.

He asked Constable A if he knew who that was, Constable A said, "No".

Constable ROSS said "We believe that's who was shot".

I have read this and it is true and I have nothing to add".

8.33 **Witness 9**

Witness 9 is the wife of Constable A and she, to the extent she is able, has corroborated Constable A's movement in the (approximately) 12 hours prior to the shooting. In her written statement Witness 9 records:

“Witness 9 states:

*That is my full name. I am [*Deleted] years of age. My date of birth is [*Deleted] I am employed at [*Deleted].*

I am speaking to Detective Constable CLARKE of the New Plymouth Police about the movements of Constable A, who is my husband, on the evening of Saturday 29 April 2000.

*Constable A began his duties at 3pm that day, leaving our home at 2.50pm in our vehicle, [*Deleted].*

*Our [*Deleted] young [*Deleted] remained at home with me.*

I next saw him at teatime. We usually have dinner at 5pm, that’s when he usually shows up.

It was about 5pm that Saturday evening when he arrived, or I think it may have been a little later.

I think he had attended an accident at Mokau. I’d phoned him on his cellphone to say that dinner was ready.

He watched the first part of the news, then left, to return to work; that was a little after 6pm.

*I next saw him at around 8pm, when he popped home for a cup of tea. [*Deleted] so it would’ve been about 8pm.*

I went to bed between 9.30 and 10pm, and went to sleep.

I was woken at approximately 3.24am or somewhere around then.

I heard Constable A say “What the hell’s going on”, in response to the phone ringing. We were both sort of jolted awake by it.

The phone is on the wall, inbetween us.

*I answered it, and spoke to “[*Deleted]” who asked for Constable A. I think she said she was from the Police Station.*

I handed the phone to Constable A who was awake by then.

*He spoke to [*Deleted] briefly and then hung up. He told me that there was someone breaking windows at the Police Station.*

I think he said that Constable B was on his way but that they wanted him to go down because he was close.

He dressed in trousers and a shirt, not uniform clothing, and had gone within two minutes of getting the call.

Sometime after 4.30am I got a call from him. I had remained awake. I couldn’t sleep because I knew he was going out alone.

I said hello and I asked him if he was alright. I must’ve said “that’s okay then”.

That was it, nothing more was said. He would have known that I was worried.

If he gets called out like this he always lets me know that he's alright.

I got up and went downstairs, on his arrival home, sometime after 5am.

I noticed the bread board on the bench with a coffee cup.

They weren't out when I went to bed and I assumed that he'd had a drink and something to eat when he'd come home after finishing his shift the night before.

He had been due to finish duty at 11pm on Saturday night, 29 April.

I have read this statement and it is true and correct and I have nothing further to add."

8.34 **Witness 7**

Witness 7 is the Surgeon who operated on Steven WALLACE and attempted to save his life at the Taranaki Base Hospital. Hospital records may be read at **TAB 32**, but it is appropriate to include the Surgeon's statement at the juncture.

*"My full name is Witness 7. I live at [*Deleted] Road, [*Deleted]. My home phone number is [*Deleted], work [*Deleted]. I am a Surgeon.*

I am speaking to Detective Constable ASHTON in regard to an incident which occurred on 30/04/00.

At about 5.00am I received a phone call from the switchboard at the Taranaki base.

The patient had been declared a status one therefore everyone required is called.

I was the on call surgeon for that weekend.

When speaking to the switchboard operator I was informed that there had been a shooting.

I then asked to be put through t A & E to confirm some more detail.

When I arrived I knew that he'd been hit several times and that he'd arrested at the scene and been resuscitated.

It took me less than 10 minutes to get to the Taranaki Base Hospital.

On arrival I went to the resucit room where the team was assembling, to await his arrival.

On his arrival there was a pass over by the paramedic. By this I mean he filled us in on his current status and what had happened thus far.

We went about normal resuscitation methods. We did a chest x-ray and then to the CT scan. I'm unsure of the exact timings of each thing.

Then he was taken to theatre. During this phase he had an adequate blood pressure.

Steven was given blood in the resucit room. These times are recorded at the hospital.

I did a laparotomy which is opening his abdomen from the sternum to below the umbilicus.

Then I extended this obliquely across the right chest opening the diaphragm and chest.

The only significant injury found was the gunshot injury to the liver.

I tried to control the bleeding. I never totally succeeded with this before he arrested.

Resuscitation was attempted but then discontinued.

We'd spent about an hour preparing Steven prior to surgery.

He would have been in surgery for at least 2 hours. I'm unsure of the exact time of death.

The bullet had gone through both sides of Steven's liver. It was very badly damaged.

During surgery Steven's other injuries were untouched as our prime concern was to deal with the life threatening injury which was the one to his liver.

We had assessed his other injuries prior to surgery but these would have been dealt with after the life threatening injury had been eliminated.

These other injuries were not life threatening.

I have read this statement and is true and correct."

A second statement was obtained from Witness 7 on 5 May 2000. The purpose of this interview was to obtain his opinion as to what the consequences of any omission by Police to ensure or provide immediate medical assistance would have had on Steven WALLACE's ability to survive his injuries.

In response, the Surgeon records by statement, refer **TAB 32**:

*"My full name is Witness 7. I live [*Deleted], New Plymouth, phone [*Deleted]. I am a Surgeon and work at Taranaki Base Hospital, phone 7579365. My cellphone number is [*Deleted].*

I am speaking to Detective Constable Robyn HOPKIRK about the deceased Steven WALLACE whom I operated on when he was admitted to hospital on 30/04/00.

This Statement is further to a Statement I made to Detective Constable ASHTON on 02/05/00.

Steven died due to a significant wound to his liver. The wound caused extensive bleeding which I tried to control during surgery.

Steven's death would not have been prevented by earlier resuscitation which includes first aid.

[*Deleted]

In this instance if first aid had been rendered immediately after Steven was shot, it would not have prevented his death.”

Comment

As a consequence of the opinions of Witness 7 and the Pathologist, Witness 8, I was satisfied that I would not be required to examine in detail, for the purposes of this homicide investigation, any reported or perceived acts of omission by the Police as it related to the provision of immediate or timely medical assistance. In short, any failure of Police to directly provide immediate medical assistance was not a contributory factor in the death of Steven WALLACE, but no doubt will be an issue of considerable interest to the PCA investigation.

On a similar theme, I understand there has been criticism of the Police by some family members regarding their access to Steven at the hospital. I have not attempted to investigate those concerns but they also may be a feature of the PCA investigation and Detective Inspector BREW has been alerted to that possibility.

9 THE PRINCIPAL SCENE : McLEAN STREET

- 9.1 The principal scene is identified as Scene D and incorporates the immediate scene at which Steven WALLACE was shot.

Various large scale plans of Scene D have been produced and these can be examined in a reduced format at Appendix E.

9.2 Description

Scene D encompassed McLean Street, Waitara from the Domett Street intersection through to midway between the Browne and Grey Street intersections.

This scene is essentially comprised of commercial properties which were closed at the time of the incident(s). One of those premises, the [*Deleted]. [*Deleted] (Paragraphs 8.28 and 8.29)

[*Deleted]

9.3 Property Damage

In total, eight shops within this scene had damage to their windows or doors. The size of these windows and doors varied but in total 36 separate glass panes were damaged.

This scene also included damage to two vehicles, a New Plymouth taxi and Constables B and C's Police patrol vehicle.

The immediate scene where Steven WALLACE was shot was immediately secured and protected as a crime scene.

Photographic Information

The scene has been extensively measured by the scene examiners and photographed by Senior Constable BARNETT, New Plymouth Photography Section on 30 April 2000. The scene was also recorded on video by Senior Constable BARNETT.

- 9.4 Detailed records of the immediate scene action taken, the examination of the actual immediate (shooting scene) and wider scene search are recorded in job sheets documented by the O/C : Scene, Detective Sergeant SUTTON. These job sheets may be read at tab **SCENE** on the investigation file.
- 9.5 Four of the five projectiles and all five cartridge cases have been recovered. Three projectiles were recovered during the post mortem and one at the scene. The missing projectile, believed to be the warning shot fired into the air, has not been located.

9.6 Significant Exhibits

Significant exhibits recovered from the principal (McLean Street scene) include:

- | | |
|-------------|--|
| Exh DO1 | 1 x metal golf club shaft located outside Peter Budden Chemist, Domett and McLeans Street, Waitara on the Footpath, and the corresponding head – |
| Exh DO4 | 1 x 3 iron metal golf club head located inside the smashed window of Peter Budden Chemist |
| Exh DO3 | 1 x pitching wedge golf club located on the footpath outside Bin Inn, approximately 30 metres away from where the victim WALLACE was shot, after being thrown at Constable A |
| Exh DO5 | 1 x bullet projectile located on the corner of Domett and McLean Street, Waitara, outside Peter Budden Chemist. |
| Exh DO8-D12 | 5 x ejected bullet shells located on McLean Street, Waitara, to the left of the marked position of Constable A. |
| Exh D13 | 1 x metal baseball bat located in the gutter of McLean Street, Waitara, outside Pro Sports, behind the marked position of Constable A. |
| Exh D14-D17 | Small bullet fragments located in the middle of McLean Street, near where the victim WALLACE was shot. |
| Exh D18 | 1 x grey long sleeved collared sweatshirt belonging to the victim WALLACE that had been removed from his |

person by ambulance staff, located at the scene of the shooting.

- Exh D20 1 x woollen blanket, also located on McLean Street at the scene of the shooting.
- Exh D23 1 x small piece of bullet jacket fragment, located on the steps of the old Post Office, McLean Street, Waitara.
- Exh D24 1 x small piece of bullet jacket fragment located on the centreline of McLean Street, Waitara between the Post Shop and Escapade Clothing.

Also obtained from Scene D were:

Exhs D25-27 Paint scrapings from the Post Office wall, the pedestrian crossing between Peter Budden Chemist and the Post Shop, and also a sign on the wall of the Post Office, all seized for comparison with paint found on Exhibit DO5, the bullet found outside Peter Budden Chemist.

9.8 Critical Distances

The following is a list of measurements which readers may find useful in interpreting various aspects of the plan or narrative of individual witnesses.

Using the scale drawings prepared by Scott Draught Engineering Draughting & Services and also by physically going to Waitara and measuring distances, the following is established:

- ◆ Witness 32's [*Deleted] [*Deleted] [*Deleted], Waitara to Waitara Police Station, 65m
- ◆ Witness 32's [*Deleted] [*Deleted] [*Deleted], Waitara to Peter Budden Chemist, 145m
- ◆ Waitara Police Station to Peter Budden Chemist, 80m
- ◆ Waitara Police Station to [*Deleted] Broadway 1.4kms
- ◆ Waitara Police Station to Constable A's address 1.3kms
- ◆ Waitara Police Station to New World Supermarket, Waitara, 300m
- ◆ Waitara Police Station to Waitara Fire Station, 600m
- ◆ Waitara Police Station to location of Police car No. 2 (Constables A and B), 145.6m
- ◆ Waitara Fire Station to New World Supermarket, 300m
- ◆ Waitara Fire Station to [*Deleted] Broadway, Waitara, 800m
- ◆ Witness 4's position outside TSB to Police car No. 1 (Constable C's observation point) , 90m
- ◆ Witness 4's position outside TSB to Police car No. 2 (Constables A and B), 172.6m
- ◆ Witness 4's position outside TSB to Constable A's final position 117m

[*Deleted]

- ◆ Witness 4's position outside TSB to Steven WALLACE's position, 115m
- ◆ Witness 4's position outside TSB to Steven WALLACE's parked car's position, 209m

- ◆ Taxi van position to Steven WALLACE's car's position, 15m
- ◆ Taxi van position to Police car No. 1's position, 114m
- ◆ Taxi van position to Police car No. 2's position, 30.4m
- ◆ Taxi van position to Constable A's position, 86m
- ◆ Taxi van position to Steven WALLACE's position, 88m

- ◆ Witness 3 and Witness 6's [*Deleted] to Steven WALLACE's car's position, 103m
- ◆ Witness 3 and Witness 6's [*Deleted] to Constable A's position, 22m
- ◆ Witness 3 and Witness 6's [*Deleted] to Steven WALLACE's position, 18m
- ◆ Witness 3 and Witness 6's [*Deleted] to Police car No. 1's position, 23m
- ◆ Witness 3 and Witness 6's [*Deleted] to Police car No. 2's position, 66.6m

These distances are not totally to scale, but are recorded to the nearest metre.

As an indicator only of the time it takes to walk at a normal walking pace, the following distances were independently covered and timed by two of the investigators.

Walk A from WALLACE's vehicle YC3834 to the Police car No. 2, the Waitara Police vehicle took 24 seconds and 24.4 seconds respectively.

Walk B from the Police car No. 2 to the Scene where WALLACE was shot took 33.8 seconds and 34.8 seconds respectively.

9.9 Reconstruction of Activity in Scene D – The Principal Scene

RECONSTRUCTION

- 03:55:02 Constable A arrived Waitara Police Station. Windows damaged
- 03:56:54 New World Supermarket alarm activated
- Constable A moves to intersection of Domett and McLean Streets
- WALLACE vehicle travels from Queen Street onto McLean Street
- Vehicle being driven on a flat front tyre in incorrect lane, ie wrong side of roundabout (vehicle travelling from seaward end of Queen Street)

WALLACE's vehicle cuts off taxi travelling along McLean Street from New Plymouth end travelling towards bridge end

Taxi approaching Queen Street roundabout when cut off. Taxi steered left towards curb to get out of way

WALLACE's vehicle travels along McLean Street and pulls up directly in front of entrance door into Peter Budden Chemist at intersection of Domett and McLean Street

Window of Peter Budden Chemist smashed by WALLACE using a golf club

WALLACE goes to boot of his car and obtains baseball bat

03:57:08 WALLACE approaches Police patrol car NUI3 as it comes to a stop at the intersection of Domett and McLean Streets. Car stopped in left hand lane just past pedestrian crossing

WALLACE approaches patrol car from approximately 10-20 metres away holding golf club. Walks fast while yelling and screaming

Using a golf club held in two hands WALLACE smashes the patrol car windscreen. Golf club gets stuck in windscreen

WALLACE pulls club from windscreen and then swings again as patrol car backs up. Driver's side window smashed

Patrol car backs along McLean Street (from arrival direction) about 20 metres

WALLACE advances upon patrol car holding golf club raised above his head

Patrol car driven onto right hand lane and drives around WALLACE, along McLean Street to the Queen Street roundabout

WALLACE returns to his vehicle, pops boot open and obtains baseball bat

NUI3 drive around the block to the Police Station. Constable B exits vehicle and goes into Police Station

Constable A arrives at Police Station

Constable C observes WALLACE who is in roadway at intersection of McLean and Domett Street

WALLACE smashes windows of Peter Budden Chemist. Moves over road and smashes windows at Thelma's Post and Lotto

WALLACE at ANZ money machine and [*Deleted] travels along McLean Street from New Plymouth end towards the bridge

[*Deleted] stops and Witness 17 calls out to WALLACE. WALLACE yells out, "Fuck off" at least twice

WALLACE runs towards [*Deleted] with baseball bat in right hand and golf club in left hand. Baseball bat held over head like he was going to hit the car

[*Deleted] drives off and travels along McLean Street, down to the roundabout at Queen Street

[*Deleted] returns along McLean and turns into Domett Street stopping

Witness 17 calls out to WALLACE who is at window of Peter Budden's Chemist

WALLACE smashes windows of Peter Budden on Domett Street

WALLACE again runs at [*Deleted]

Car drives off to avoid damage

WALLACE smashes windows of Pro Sports and Invacare

03:58:44 WALLACE chases a taxi which travels along McLean Street (this may have occurred before 03:58:44 but this is when Constable C did update)

04:00:11 WALLACE returns to vehicle and drives up McLean Street towards New Plymouth

WALLACE drives up McLean to the area in front of the Caltex Service Station (Cracroft Street)

WALLACE turns around and drives from Cracroft Street to the area in front of Major Colour

WALLACE noses vehicle into carpark area outside Colour Plus

Constable C moves observation point to McLean Street at intersection with Domett (parks directly in front of Post Office)

04:01:07 WALLACE smashing windows of shops in next block, Major Colour, Waitara Angle, Finishing Touch, Te Maunga Hauroa Trust

04:01:24 WALLACE returns to his motor vehicle

04:02:04 Constables A & B drive from Police Station in Waitara patrol car turning left onto McLean Street and drive up McLean Street. Constable B is driving

Waitara patrol car parked on McLean Street just short of Grey Street intersection

Constables A & B get out of patrol car

WALLACE is with his vehicle, which is located approximately 30 metres from the Waitara patrol vehicle

Constables A & B move into area of intersection, B in middle of intersection and A in west bound lane (seaward side)

Constable B observes WALLACE armed with golf club and baseball bat

Constable B draws firearm and states, "Armed Police, drop your weapon" (or similar)

WALLACE approaches A & B from his vehicle yelling abuse, "You've fucked me around too much (or similar)", yelling, very abusive, repeating himself

In possession of a baseball bat (aluminium) and golf club (iron)

Constable A calls out, "Witness 2, what's going on. Can we talk?"

Constable B on right hand side of Constable A

WALLACE advances on Constables A & B who begin retreating

WALLACE yelling abuse and focusing his attention on Constable A

[*Deleted] travels along McLean Street (from bridge end) and turns into Grey Street and stops

People get out of [*Deleted] and Constable B tells them to, "fuck off" (or similar)

WALLACE throws his golf club at Constable A

WALLACE yelling at Constable A, "You're persecuting me" and continues advancing

Constable A draws firearm

Constable A states, "Witness 2 I'm armed"

WALLACE has baseball bat in front of his body with end of bat over shoulder

WALLACE states, "You fucking asshole, I'm going to fucken kill you". WALLACE is focusing on Constable A

Constable A is talking to WALLACE while retreating (backing) down the street

Constable A saying, "Witness 2, what are you doing?" (or similar)

WALLACE continuing to yell threatening to kill Constable A as he advances and Constable A backs up

04:03:06 Situation escalating, WALLACE advancing down road towards Constable A

Constable A states, "Witness 2, I'm armed" which has no effect on WALLACE who continues advancing

Constable A yells out he is armed on 2-3 occasions with no effect

WALLACE advancing directly upon Constable A yelling threats to kill

WALLACE approximately 20 metres from Constable A

Constable A had backed 50 metres from where patrol vehicle was parked

Constable B had firearm aimed at WALLACE standing on Constable A's right approximately 20 metres away from Constable A

WALLACE near centre of road and Constable A on side of road close to curb

Constable A raises his firearm, pointing in the air and fires one warning shot

WALLACE continues advancing upon Constable A while screaming with the bat raised in the air

WALLACE yelling, "You fucken arsehole, I'm going to kill you"

04:03:33 Constable A fires 4 shots in rapid succession. WALLACE is approximately 5-6 metres from Constable A

WALLACE drops bat and bat rolls down camber of road stopping short of the gutter in the left lane (facing the bridge)

WALLACE falls to ground, struggling on ground while yelling

WALLACE gets to feet and then stumbles, falling back to the ground

Constable B moves around to the left hand side of Constable A.

Expended Cartridge Cases

There is one aspect of the scene that does not accord with the statement of Constable A, and that relates to the positions at which the five expended cartridge cases (Exhibits D08 – D12) were located, relative to the position Constable A believes he fired from.

As indicated in his statement, Constable A believes that he remained rooted to the spot from which he fired directly at Steven WALLACE until it was marked some 10 minutes later by Constable B.

As a component of the Armourer's examination of Constable A and B's Glock pistols, a report on the weapons' ejection patterns was sought. Both weapons, as anticipated, given the position of their ejection ports, eject to the right and towards the rear, on average approximately .5 to 1 metre from the point of firing.

The cartridge exhibits D08 – D12 were in fact located to the left of the position Constable A believes he fired from when it would be expected they should generally have fallen to the right and tending to the 4 o'clock position at the point from which he fired.

There are two possible explanations for this apparent inconsistency:

- (i) That the positions of the cartridge cases have altered as a consequence of the ambulance driving over them. While it is known the ambulance did drive directly over the point where these exhibits lay and while one of the exhibits clearly has been squashed by a vehicle or person within the scene, it is not considered likely that these exhibits, as a general group, would have moved en masse.

- (ii) The most likely explanation is that Constable A is mistaken about the point he actually fired from. It is considered that the position A fired from was probably approximately 2 metres to the left of the position he ultimately marked, and that the position he marked is the point at which he (Constable A) actually stopped moving. It is reconstructed that because WALLACE continued to move on the ground while trying to stand up, that Constable A has moved to his right to cover the offender and that it is that point that he has marked on the road.

10 **EXHIBITS**

- 10.1 A total of 117 exhibits have been preserved from a range of scenes associated with this investigation and in particular, from the significant scenes:

Scene A	Waitara Police Station
Scene B	New World Supermarket
Scene C	Fire Station
Scene D	McLean Street
Scene E	Vehicle YC3834

- 10.2 The following summary will provide the reader with some appreciation of the significant exhibits recovered:

SCENE A – Waitara Police Station, Domett Street, Waitara

The following exhibits of note were uplifted from Scene A:

- Exh A01 1 x wooden saw horse, located below the smashed window in the left front garden of the Waitara Police Station
- Exh A02 1 x golf club shaft, located in the gutter in front of the Waitara Police Station
- Exhs A05 & A06
2 x white golf balls located in the front parking area of the Waitara Police Station
- Exh A08 1 x golf club shaft, located in the front parking area of the Waitara Police Station
- Exh A09 1 x sand wedge golf club head located in the garden bushes to the right of the Waitara Police Station sign, below the smashed windows
- Exh A10 1 x wooden pallet located in garden at the right front of the Waitara Police Station below the broken windows of the Sergeant's Office
- Exh A15 5 x white golf balls located in the front of the Waitara Police Station

- Exh A16 1 x wooden saw horse located behind the Waitara Police Station sign at the Waitara Police Station
- Exh A17 1 x metal golf club shaft located in the gutter across the road from the Waitara Police Station
- Exh A20 A metal 6 iron golf club head located on the top of the book shelf under the window on the inside of the Detective's room in the Waitara Police Station
- Exh A21 1 x white golf ball located on the window sill inside the video interview room of the Waitara Police Station

Exhs A22-A25

Police Glock pistol, serial ALP476, a 9mm round ejected from that Glock, the magazine containing 11 rounds ejected from the Glock, the Glock holster with spare magazine, located in the safe in the Waitara Police Station, being the Glock used by Constable A on 30/04/00

Exhs A26, A26A, A26B, A26C

Police duty belt, pepper spray canister and pouch, set of handcuffs and pouch, Police portable holder belonging to Constable A, located on the table in the middle of the Waitara Police safe

Exhs A30-A33

1 x plastic Glock case containing Glock ALP727 and full magazine, located in the Arms cabinet, which was signed out by Constable B on 30/04/00

- Exh A34 1 x metal golf club shaft located in the garden at the right front of the Waitara Police Station
- Exh A35 1 x 8 iron metal golf club head, located in the garden at the right front of the Waitara Police Station

Of particular note were the 4 golf club shafts located around the exterior of the Waitara Police Station, and the 3 golf club heads, one of which was located inside the window of the Detective's room and two that were located outside in the garden, under the broken windows. Also 9 golf balls were found outside the Waitara Police Station and 1 inside the window of the video interview room.

SCENE B – New World Supermarket, Queen Street, Waitara

A scene examination was carried out of the New World Supermarket, but no exhibits were located.

SCENE C – Waitara Fire Station, Grey Street, Waitara

Only two exhibits were uplifted from the Waitara Fire Station, being:

- Exh C01 1 x metal golf club shaft with maroon handle, located on the outside of the main doors of the Waitara Fire Station, below the broken windows
- Exh C02 1 x brass golf putter head, located on the inside of the Fire Station, underneath the rear wheels of a fire engine

SCENE D – McLean Street, Waitara

The following exhibits of interest were located in McLean Street, Waitara:

- Exh D01 1 x metal golf club shaft located outside Peter Budden Chemist, Domett & McLean Streets, Waitara, on the footpath, and the corresponding head -
- Exh D04 1 x 3 iron metal golf club head located inside the smashed window of Peter Budden Chemist
- Exh D03 1 x pitching wedge golf club located on the footpath outside Bin Inn, approximately 30 metres away from where the victim WALLACE was shot
- Exh D05 1 x bullet projectile located on the corner of Domett & McLean Streets, Waitara, outside Peter Budden Chemist

Exhs D08-D12

5 x ejected bullet shells located on McLean Street, Waitara, to the left of the marked position of Constable A

- Exh D13 1 x metal baseball bat located in the gutter of McLean Street, Waitara, outside Pro Sports, behind the marked position of Constable A

Exhs D14-D17

Small bullet fragments located in the middle of McLean Street, near where the victim WALLACE was shot

- Exh D18 1 x grey long sleeved collared sweatshirt belonging to the victim WALLACE that had been removed from his person by ambulance staff, located at the scene of the shooting
- Exh D20 1 x woollen blanket, also located on McLean Street at the scene of the shooting
- Exh D23 1 x small piece of bullet jacket fragment, located on the steps of the old Post Office, McLean Street, Waitara
- Exh D24 1 x small piece of bullet jacket fragment located on the centreline of McLean Street, Waitara, between the Post Shop and Escapade Clothing

Also seized from Scene D:

Exhs D25-D27

Paint scrapings from the Post Office wall, the pedestrian crossing between Peter Budden Chemist and the Post Shop, and also a sign on the wall of the Post Office, all seized for comparison with paint found on Exhibit D05, the bullet found outside Peter Budden Chemist.

Items introduced to this scene were 1 x metal golf club head located inside Peter Budden's window, 1 x pitching wedge golf club located outside Bin Inn that had been thrown at Constable A and the metal softball bat located in the gutter outside the Pro Sports shop

SCENE E – Vehicle YC3834, a Nissan Presea coloured black

The following exhibits of interest were seized from the boot of YC3834:

Exh E01 1 x pair of black Niblick golf shoes

Exh E02 1 x 4 iron golf club with broken shaft

Exh E03 1 x red and black Nike golf glove

The following exhibits of interest were located in the interior of the vehicle:

Exh E06 1 x blue Adidas t-shirt from front passenger's seat

Exh E10 4 x blood stain lifts from the interior fabric

Exhs E11 & E12

The left and right front tyres of the vehicle, the left front tyre being driven on while flat and the right front tyre showing wear down to the metal belt of the tyre

Tyre residue segments, scrapings of tyre rubber and scrapings of white paint were also seized in relation to this vehicle from the median strip at the corner of Devon Road and Northgate, New Plymouth, where it is believed a witness saw a similar vehicle hit the median strip about the time WALLACE was en route from The Mill Night Club to Waitara.

VICTIM

Exhibits were seized from the victim and included:

Exh V02 1 x pair black Fila shoes

Exh V03 1 x pair of blue Levi 507 button up jeans

Exh V05 The wallet of the victim, which contained 8 various cards and \$29.70 in cash

Exhs V08-V24

Post mortem exhibits, including fingernail scrapings, blood, bullet fragments and surrounding areas of wound which were seized by ESR Scientist Peter WILSON

POLICE

The following exhibits of interest were seized in relation to Police staff or Police activities:

Exh P01 Constable C's duty jacket, which had blood staining to the sleeves after giving first aid to the victim

Exhs P02-P04

Taranaki Police Radio Comms tapes on 30/04/00

Exh P05 Incoming 111 calls re the Waitara event to Police Comms in Wellington on 30/04/00

Exh P06 1 x tape of the Taranaki Dipatcher's outgoing telephone calls on 30/04/00

Exhs P07-P10

Videotapes from the New Plymouth Police City security cameras that had images of the victim WALLACE outside The Mill Bar, Powderham Street, New Plymouth prior to his leaving to return to Waitara, and photographs that were developed from these videos.

EXAMINATION OF EXHIBITS

The following items have been sent to ESR for examination.

Exhs V08-V20

The post mortem body samples taken during the post mortem by ESR Scientist Peter WILSON

Exhs V21-V24

Pre-transfusion blood samples seized by Police which were delivered to the ESR Scientist Peter WILSON

Exhs D05, D06, D08-D18, D23, D24

Exhibits taken from the main scene, including bullets, bullet casings, blood stains on windows, the metal baseball bat, grey sweatshirt of the victim and bullet fragments.

Exhs E10 & A29

Blood lifts from vehicles YC3834 (WALLACE's vehicle) and [*Deleted] (the Waitara CIB vehicle)

Exh P01 The Police duty jacket of Constable C which was sent for the blood on the sleeves to be tested against that of the victim WALLACE

Exhs E11 & 12

The two front tyres of the black Nissan Presea, YC3834, which were sent to be tested against Exhibits E13, E14 & E15, which are the rubber and paint scrapings from the median strip at Northgate & Devon Road

Exhs D25, D26, D27

Paint samples from the Waitara Post Office wall, pedestrian cross on McLean Street, and sign on the Waitara Post Office wall to compare with the projectile Exh D05 which was located outside Peter Budden Chemist

The following exhibits were sent to the Police Armourer at the Upper Hutt Police Station prior to examination by the ESR to compare rifling marks with projectiles recovered, examine Glocks for mechanical integrity, ascertain shell ejection patterns and to ascertain which Glock was fired on 30 April 2000, these Exhibits are identified as:

Exhs A22-A25

Relating to Glock ALP476 used by Constable A

Exhs A30-A33

Relating to Glock ALP727 signed out by Constable B on 30/04/00.

In summary, the following exhibits of interest appear to have been introduced to the various Scenes by Steven WALLACE:

Vehicle YC3834 – the black Nissan Presea

1 x metal baseball bat

1 x golf club intact

6 x broken golf club shafts

6 x golf club heads

10 x golf balls.

In total 117 exhibits have been retained, and are recorded in the Operation McLean Exhibits Register.

Only those exhibits of direct interest to the investigation have been referred to in this report, the complete list of exhibits retained are recorded in the Exhibits Register. Exhibits not sent to the ESR or Armourer for examination have been secured in the Exhibit Store at the New Plymouth Police Station.

11 **BALLISTICS EXAMINATIONS.**

11.1 The examination of the two Glock pistols in the possession of Constables A and B, together with the recovered expended cartridge cases and projectile fragments has been undertaken by Mr Peter WILSON, a Forensic Scientist employed by the Institute of Environmental Science and Research (ESR), Lower Hutt.

In addition to the forensic examination of these exhibits and in conjunction with the Police Armourer, Mr Robert NGAMOKI, the two

subject Glock pistols were examined to establish their mechanical integrity and the ejection pattern of each weapon.

The reports of Mr WILSON and Mr NGAMOKI are appended at Appendix Q.

- 11.2 In summary, Mr NGAMOKI reports that both firearms functioned normally and that the three trigger safety mechanisms incorporated into both firearms were fully functional. The trigger pressures on both firearms are within the prescribed 'safe' specifications.

Mr WILSON reports that the ejection patterns of the two Glock pistols were consistent with each other, ie tending to eject to the right and rear of the firer and towards the 4 o'clock position. The pattern once the casings struck the surface of the floor became less exact, although the majority (four of five) tended to continue in the same direction.

Mr WILSON's report supports the observations and reconstruction of the scene examiners who conclude that the shots fired by Constable A were not fired from the precise position identified by Constable A and marked by Constable B but rather from a position to the left and forward of the general grouping of cartridge cases (a discrepancy of approximately 2 - 3 metres).

Mr WILSON further concludes that the five recovered and expended cartridge cases were all fired from the same pistol.

Of the four bullet projectiles examined, three were recovered from the victim's body during the post mortem and one (Item D5) was located at the scene. The bullet projectile (Item D5) bears trace evidence consistent with the bullet having passed through the victim's body. It is therefore reasonable to conclude that the fifth projectile which remains unrecovered was the warning shot fired into the air.

12 **POST MORTEM EXAMINATION**

The Pathologist, Witness 8, provided a provisional post mortem report, in which he records (Refer TAB 33) :

"Death was a result of a gunshot wound to the abdomen which involved the liver (subsequently operated on). Other gun shot wounds were present involving the right upper arm, left forearm and left upper arm and muscle tissues of the anterior chest and right upper back.

... In my opinion the injuries to the liver caused by the gunshot wound were extensive and death from them was inevitable despite first aid resuscitation and subsequent surgical intervention."

Witness 8's comprehensive Autopsy Report is appended at Appendix P. In that report the Pathologist concluded ... *"the cause of death was due to gunshot wounds (operated on), the fatal gunshot wound being a gunshot wound to the abdomen causing damage to the liver."*

13 **FORENSIC AND TOXICOLOGY EXAMINATIONS**

13.1 Toxicology

The Toxicological examinations were also undertaken by ESR and the report of Doctor Michael HEENAN, Forensic Toxicologist, is appended at Appendix Q.

In summary, Doctor HEENAN reports the level of alcohol in Steven WALLACE's blood was 203 milligrams of alcohol per 100 millilitres of blood, ie approximately 2 ½ times the legal driving limit.

With regard to victim blood analysed for the presence of drugs, Doctor HEENAN reports:

"The ante mortem blood (004) was analysed for the presence of the majority of medicinal drugs which affect the mind, alter mood or cause sleep. None were detected. The same blood was examined evidence of the use of amphetamines, cannabis and morphine. No such evidence for the use of these drugs was found.

The urine was examined evidence of the use of magic mushrooms (psilocin), amphetamines, cannabis, cocaine, opiates and lysergic acid diethylamide (LSD). No such evidence for the use of these drugs was found. The only drug detected in the urine was lignocaine. Lignocaine is often used by ambulance officers and other paramedics when attempting resuscitation.

13.2 Forensics

Mr Peter WILSON of the ESR also conducted the general forensic analysis of exhibits and motor vehicles associated with the investigation. As a feature of his duties he attended and assisted the Police Crime Scene Examiners and also attended the post mortem examination.

Mr WILSON details in his report, Appendix Q, his reconstruction and observations with regard to bullet trajectories to the victim's body, his examination of the victim's upper body clothing, baseball bat and motor vehicle. Mr WILSON concludes that the damage to the victim's sweatshirt caused by the passage of bullets corresponded with the nine major wounds to the victim's body.

14 **GENERAL ENQUIRIES**

14.1 As in most homicide investigations, a diverse range of general enquiries were undertaken and recorded. The bulk of such enquiries in this case has involved the area canvass of all the significant scenes including the WALLACE family home.

Enquiries have been made with victims, property owners or organisations whose property has been damaged by Steven WALLACE. The purpose of such enquiry being to establish if any

organisation or individual had encountered difficulty with Steven WALLACE that might explain their becoming a target

Other than the Waitara Police, no individual or organisation had experienced any difficulty with WALLACE.

While some conspiracy theorists may endeavour to associate or make various linkages, this investigation has not established that to be the case. The individual targets with the probable exception of the Police Station, appear to have been randomly selected.

General enquiries of the type referred to, while not recorded in this report, are documented on the investigation file unless the information was of significance, in which case it would feature in one of the sections of this report.

14.2 Another phase of the investigation which essentially falls under the heading General Enquiries encapsulates those enquiries undertaken seeking to confirm or corroborate Constable A's activities during the 12 hours preceding the shooting. These enquiries have included interviewing members of the public with whom he had contact during his 8 hour shift, ie 1500 – 2300 hours on Saturday 29 April. Interviews with people attending a private wedding function at the Fire Station because of (false) rumours circulating that Constable A had attended the function late on Saturday 29 April and an interview with Constable A's wife.

Other enquiries include the interrogation of the Waitara Police Station telephone, communication and computers to identify what transactions and/or communications Constable A made during his 8 hour shift.

Constable A has been interviewed specifically to establish his movements and activities in the 12 hours preceding the shooting and he was directly questioned to ascertain or include any social or informal activities he might have undertaken during or after his lateshift duties.

15 **OPERATIONAL AND COMMUNICATIONS LOGS**

15.1 The investigation has made a determined effort to ensure that every possible communication between members of the public (ie telephone) and Police and radio communications between Police members be identified and transcribed.

To this end the original Communications Centre and Emergency 111 tapes have been identified and preserved. Similarly, the Communications Centre audio tapes recording the Police radio transmissions from the time of the initial despatch of Constables B and C until after the shooting have been identified and preserved.

The transcribed audio recording of the various Police radio communications provides a critical real time baseline from which to establish the timings of the significant events.

The technical assistance of the Wellington Electronic Crime Laboratory has been sought to enhance the sounds of raised voices believed to be those of WALLACE and the Police in the seconds prior to his being shot and while Constable C was providing a situation report (sitrep).

Senior Technical Investigator KINRAID records in his report:

*"I have undertaken an aural examination of the CARD Centre recording relating to Operation McLEAN.
As a result of this examination I have been able to locate a few words which may be part of the verbal exchange between the victim and the two Police Constables.*

On the transcript provided these words occur at the end of the section of audio uttered by the female Police Constable (time referenced as 04:03:06) and before she releases the Press to Talk (PTT) button on the Police radio.

My opinion is that the words said were – "I've just had a fucking" said by one person. These words are also followed by one other word that I have been unable to determine. It is possible that this word was also said by the same person OR by another person.

On the same radio transmission there are other occasions earlier where other words are said in the background. Because the main conversation in the foreground is much louder than the words in the background it masks the words said (or parts thereof) to the extent that they cannot be determined.

Due to this and other factors such as the distance from the microphone, quality of the CARD centre recording, there has been minimal improvement possible in the audio enhancement process."

- 15.2 The transcribed audio tapes of Police/public telephone communications records and Police radio communications are appended at Appendix H.
- 15.3 A copy of the Communications Centre log is appended to this report at Appendix I as is the New Plymouth manually produced log of events at Appendix J.

Note: Some discrepancy will be apparent in the timings recorded on the Comms Centre log and those relied on from the audio tape. The audio tape time is produced or automatically recorded as the recording proceeds. The accuracy of the timing mechanism and setting has been confirmed. In contrast, the Comms Centre log times do not necessarily provide an accurate timing of an event or patrol despatch as the times are dependent on when the information was entered into the computer and transmitted.

16 CHRONOLOGY OF SIGNIFICANT EVENTS

The following represents a chronology of the significant events (Refer Appendix N – Event Flow Chart):

- 30/04/00
0200 hours Steven WALLACE seen at The Mill Nightclub, Powderham Street, New Plymouth.
- 0300 hours Steven WALLACE seen on path heading down to The Mill carpark at closing time.

Steven WALLACE in happy mood, not too intoxicated.
- 0340 hrs (approx.) Steven WALLACE drives on road stopping at [*Deleted] Broadway. Vehicle tyres squealing disturbing neighbours.
- 0345 hours Steven WALLACE at Police Station smashing windows. Vehicle observed and then returns home to [*Deleted] Broadway
- 0346 hours Police contacted concerning damage at Waitara Police Station.

Constables B and C both on patrol in separate locations within New Plymouth.

Constable C returns in vehicle and uplifts Constable B at the intersection of Powderham and Currie Streets and proceeds to Waitara.
- 0350 hrs (approx.) Steven WALLACE arrives back at home. Banging on shed door. Yelling, "Did you hear that!" "You're nothing but a fucking cunt". Witness hears alloy bat fall on ground. Car drove off.
- 0348 hours Constable A called out from his Waitara home.
- 0354 hours Constable A arrives at the Waitara Police Station. Windows already damaged.

Fire Station windows smashed. WALLACE's vehicle causes skid marks into Fire Station area. Car tyre goes flat. Vehicle drives off towards New World Supermarket.

New World Supermarket windows smashed, glass break alarm activated at 0357 by their timer.

Steven WALLACE travels around roundabout in incorrect lane. Marks left by rim of flat tyre. Turns from

Queens Street right onto McLean Street and almost collides with another motorist.

Steven WALLACE pulls vehicle up at intersection of Domett and McLean Street. Noses into Peter Budden Pharmacy. Marks left by flat tyre indicate direction of travel from Queen Street direction.

WALLACE tries door of Peter Budden Chemist. Goes to boot of car. Moves to Peter Budden Pharmacy and smashes windows.

WALLACE threatens group travelling in Witness 16's car. Ran at them as they passed from area of ANZ money machine.

Taxi side window smashed.

0357 hours Patrol car windows smashed by WALLACE who approached car from about 20 metres away.

Constables A and B independently decide to uplift firearms and go to the Waitara Police Station for that purpose.

Constable C, after dropping Constable B at the Police Station, returns to McLean Street and observes WALLACE.

WALLACE crosses over road to Thelma's Post & Lotto and smashes windows.

Crosses back over road and smashes sports shop and mobility shop windows.

Gets into his vehicle and speeds up McLean Street to area of Caltex Service Station (Cracroft and McLean).

Steven WALLACE turns vehicle around and drives back along McLean Street parking outside Major Colours.

0401 hours Steven WALLACE being watched by Constable C who was stationary at the intersection of Domett and McLean Street.

WALLACE gets out of his vehicle and begins smashing windows in this area.

Constables A & B drive in the Waitara Police patrol vehicle from Domett Street onto McLean Street on the eastern side of the Grey Street/McLean Street intersection.

The arrival of Constables A & B gains WALLACE's attention, who is in the area in front of Major Colours approximately 30 metres away.

WALLACE approaches, armed with golf club and baseball bat, aggressive and abusive.

WALLACE walks towards Constable B who identifies himself as Police and that he is armed. Constable B has firearm drawn.

Constables A & B begin backing down the street as WALLACE approaches.

Constable A calling to WALLACE, saying "Witness 2, what are you doing?"

WALLACE focuses on Constable A, "You're persecuting me, I've had enough". At this time WALLACE is in possession of a bat and golf club.

WALLACE continues advancing up the middle of the road as Constables A & B back away.

WALLACE throws a golf club at Constable A.

Constable A draws his firearm.

Constables A & B again identify themselves stating they are armed.

Constable A backed up road close to curb as WALLACE moves to within 10 metres of him.

WALLACE holding the baseball bat over his shoulder and continues advancing on Constable A.

Constables A & B both have pistols pointing at WALLACE. WALLACE focuses on Constable A and continues to advance, reducing the distance between them.

Warning shot fired in air by Constable A and WALLACE continues to advance.

- 0403 hours Steven WALLACE shot by Constable A.
- 0403 hours Constable C requests ambulance attendance.
- 0407 hours First back up Police arrive. Sergeant PRESTIDGE, I Car Supervisor.
- 0415 hours Ambulance en route but still on the outskirts of New Plymouth.

17 **POLICE ACCOUNTABILITY IN THE USE OF POTENTIALLY LETHAL FORCE**

17.1 While not wishing to trespass into territory that will be examined in precise detail by the Police Complaints Authority relating to Police Practice Policy and Procedures, it is necessary, in making an assessment of or determining criminal culpability for the death of Steven WALLACE, to identify, examine and consider those practices, policies, procedures and authorities that impact on a Police Officer contemplating or using potentially lethal force

17.2 **Compliance With Police Policy, Practice, Procedures and the Law**

The starting point for examination of the basic principles, practices and procedures for dealing with armed offenders is Volume One (2nd Edition) of the Manual of Best Practice (refer Appendix B, pages 428 - 483 under the title Armed Offenders). The next point for examination is the Police General Instructions, particularly those relating to the issue, carriage and use of Police firearms (refer Appendix A), which reflect current Police policy on these matters. Also relevant are the over-arching legislative provisions of the Crimes Act 1961, which govern the use of force in this country (refer Appendix C).

17.3 **Armed Offenders' Principles, Practices and Procedures**

Two of the basic principles of the Police response to armed offenders are outlined on page 428 of the Manual of Best Practice, as:

- Cordon and contain the suspect and adopt a wait and appeal role;
- Any force used should be the minimum necessary to achieve the objective, and reasonable under the circumstances.

Some observers and commentators have publicly espoused their views that the three attending Constables, ie A, B, and C should have adopted a wait and see approach until further back up was available from New Plymouth. In essence what they suggest is that the attending Police failed to observe the basic principles when dealing with an armed offender, ie to cordon and contain.

The reality facing Constables A, B, and C was that they had no prospect, with their limited resources, of effectively cordoning the offender and, at best, even if other patrols could have been despatched, such limited support was at least 5-6 minutes away and in the case of the dog patrol, 10-15 minutes away.

Each of these Constables had experienced first hand the behaviour and extremely aggressive demeanour of this offender. Constables A and B, independently of each other and entirely without collaboration, formed their own unequivocal opinion that they needed to uplift firearms from the Waitara Police Station. The purpose of each Officer

arming himself with firearms was not with the intent of killing or injuring the offender but to provide himself with an appropriate level of protection.

Having done so, Constables A and B took the decision that dozens of Police Officers in New Zealand take every week when confronted with baton or instrument wielding offenders, ie to endeavour to negotiate by voice contact from a safe distance.

There is no evidence that Constables A or B were intending to effect the arrest of WALLACE immediately prior to the shooting although that objective may well have been in their minds. They did not have time to formulate a plan in the short (140 metre) distance they travelled from the Police Station.

Constables A and B, on the evidence, drove to within approximately 30 metres of WALLACE. Of considerable relevance, Constable A records that he was not aware that Constable C was even in Waitara and considered Constable B and he were alone. It appears that Constable A did not register the presence of Constable C's patrol vehicle as they passed it en route and, if he did, associated it only with Constable B's transport to Waitara.

Immediately Constables A and B parked their patrol vehicle and got out, WALLACE went on the offensive. He is described as being angry – very angry - and was yelling and swearing at, it appears, Constable B.

Constables A and B endeavoured to communicate with WALLACE but were immediately forced on the defensive. As they retreated backwards over a distance of 60 metres, WALLACE's pace increased and he began to significantly reduce the distance between himself and the Constables, from approximately 20 metres to 10 metres, and finally approximately 5-6 metres immediately before he was shot by Constable A.

The time elapsed from Constables A and B leaving the Waitara Police Station until WALLACE was shot was 75 seconds.

There will no doubt be observers who believe Constables A and B should have maintained observations on WALLACE from a safe distance rather than approach him as they did.

These Officers were right on the spot. They had observed first hand WALLACE's violent and aggressive attacks to property and the Police patrol vehicle driven by Constable C.

These Officers realised they were dealing with a mobile offender who was still in possession of his vehicle and that they must take reasonable action to ensure that he be contained and called upon to desist.

Those observers who have publicly criticised Constables A and B for not waiting for back up, would likely have been the first to criticise

them if they had sat on their hands 50 metres down the road in the safety of their patrol car while perhaps WALLACE decamped in his vehicle and seriously injured, maimed or killed an innocent member of the community.

The facts disclosed by this investigation reveal that Constable A shot WALLACE not because he had broken some windows, not because WALLACE was resisting arrest, but because he, Constable A, feared for his life. He shot him in self-defence.

17.4 **Police General Instructions – Issue of Police Firearms & Ammunition**

Police policy governing the issue of firearms and ammunition to Police Officers is set out in General Instruction F59 (refer Appendix A). General Instruct F59(4) states:

“Police firearms are not to be issued to staff except on the authority of a Commissioned Officer or supervising NCO unless an emergency exists and no Commissioned Officer or NCO is available.”

General Instruction F69(6) provides that whenever a firearm or ammunition is issued, certain details must be recorded in the Firearms Register, ie serial number of weapon, date, time, number of rounds, and so on.

Clearly the situation confronting Constables A and B constituted an emergency. Both weapons were signed in and out retrospectively before going off duty.

17.5 General Instruction F59(9)(a) provides as follows:

“.....responsibility of each staff member to have a detailed knowledge of the use of firearms by Police in accordance with General Instructions F61 and Sections 39, 40, 41, 48 and 62 of the Crimes Act 1961.”

I am satisfied that Constable A has a very detailed knowledge of the use of firearms by Police and that he complies with General Instruction F59(9)(a). He has been a member of the AOS for more than 13 years. He is a trained sniper and attends regular AOS training days and camps, the most recent just two days before the shooting.

Constable A's recent firearms training record is recorded at Section 18. The 9 mm Glock pistol is the personal protection weapon issued to all Armed Offenders' Squad members and Constable A is very familiar with the weapon and its characteristics.

17.6 **Police General Instructions – Carrying of Firearms by Police**

General Instruction F60(2) sets out the guidelines for carrying firearms and to the extent applicable in this case it provides as follows:

(2) *A member may carry firearms in the following circumstances:*

- (3) *When it is expected on reasonable grounds that any of the circumstances referred to in General Instruct F61 may be encountered. If an authorising officer is not readily available, members may exercise their own discretion, but shall advise their supervising member at the first reasonable opportunity that they have done so.*

It is submitted that the actions of WALLACE attacking the buildings and occupied Police patrol vehicle with weapons in such a violent manner, justified the carriage of firearms by Constables A and B and that this carriage was in accord with circumstances contemplated by General Instruction F61, ie carriage and use to defend oneself or to defend others etc.

General Instructions F60(3) prohibits the consumption of alcohol within a reasonable time before commencing duty. There is no evidence that either Constable A or B had consumed alcohol in the preceding hours.

A rumour circulating in some media circles which suggested Constable A had attended and was drinking alcohol at a private function late the preceding evening, has been investigated and shown to be totally inaccurate.

17.7 **Police General Instructions – Use of Firearms by Police – Police Use of Force**

This section of the report deals with the principles applying to the use of firearms by the Police and the use of force per se. These concepts involve consideration of various sections of the Crimes Act 1961 (refer Appendix C), the Police General Instructions (refer Appendix A) and the Manual of Best Practice (refer Appendix B).

Section 48 of the Crimes Act 1961 provides as follows:

“Everyone is justified in using, in the defence of himself or another, such force as, in the circumstances as he believes them to be, it is reasonable to use.”

Section 48 incorporates a subjective component, ie a belief which is honestly held (by Constable A).

Of relevance is Constable B’s own subjective assessment of the situation he was in, as recorded at page 12 of his statement (refer tab CONST B) -

“As the offender was approaching Constable A I realised that he was not going to stop and that one of us was going to have to shoot him. I had made the decision that if Constable A did not shoot him, then I was going to. I was positive that had he reached Constable A, he would have had no hesitation in hitting him with the bat, with the intention of killing him.

I was also positive that had he reached and killed Constable A, then he would have come after me next.”

Sections 39, 40 and 41 of the Crimes Act 1961 contain provisions to justify the use of such force as may be necessary to make an arrest; to prevent the escape or rescue of a person seeking to avoid arrest (or who has been arrested); or to prevent serious violence.

As discussed at Paragraph 17.3, the evidence does not support the proposition that WALLACE was shot by Police who were actively endeavouring to arrest him or prevent his escape. The Officers insist they did not discuss or make any plan prior to leaving the Waitara Police Station nor did they do so in the approximately 140 metre drive to the point they parked their vehicle. Even if Constables A and B had intended to make an arrest or prevent his escape, WALLACE denied them the opportunity to gain the initiative as he immediately went on the offensive and they the defensive.

Section 62 of the Crimes Act 1961 provides as follows:

“Everyone authorised by law to use force is criminally responsible for any excess, according to the nature and quality of the act that constitutes the excess.”

17.8 General Instruction F61 provides as follows:

- (1) *Members must always be aware of their personal responsibilities in the use of firearms. Under Section 62 of the Crimes Act 1961 a member is criminally liable for excess force,. An over-riding requirement in law is that minimum force must be applied to effect the purpose. Police should not use a firearm unless it can be done without endangering other persons.*
- (2) *Police members shall not use a firearm except in the following circumstances:*
 - (a) *To DEFEND themselves or others (Section 48, Crimes Act 1961) or if they fear death or grievous bodily harm to themselves or others, and they cannot reasonably protect themselves, or others, in a less violent manner.*
 - (b) *To ARREST an offender (Section 39, Crimes Act 1961) if they believe on reasonable grounds that the offender poses a threat of death or grievous bodily harm in resisting his arrest;*

AND

The arrest cannot be reasonably effected in a less violent manner;

AND

The arrest cannot be delayed without danger to other persons
 - (c) *To PREVENT THE ESCAPE of an offender (Section 40 of the Crimes Act 1961) if it is believed on reasonable grounds that the offender poses a threat of death or grievous bodily harm to any person (whether an identifiable individual or members to the public at large);*

AND

He takes flight to avoid arrest, OR he escapes after his arrest;

AND

Such flight or escape cannot reasonably be prevented in a less violent manner.

- (3) *In any case an offender is not to be shot:*
- (a) *Until he has first been called upon to surrender, unless in the circumstances it is impracticable and unsafe to do so.*

AND

- (b) *It is clear that he cannot be disarmed or arrested without first being shot.*

AND

- (c) *In the circumstances further delay in apprehending him would be dangerous or impracticable.*

NB F61(2) and (3) are generally referred to by Police as “fire orders”. It is mandatory that a Police officer being issued with a firearm is given fire orders simultaneously (refer G.I. F59(9)(a). In the case of general duties Police, this is usually achieved by reference to a printed aide memoire on the inside cover of all Police issue note books. In the case of AOS members, however, due to the frequency of their call-outs and the critical importance of fire orders, they are required to know fire orders by memory.

It will be noted that all of these provisions are ascribed due prominence in the opening pages of the Armed Offenders segment of the Manual of Best Practice. This segment also highlights the principle that “any force used should be the minimum necessary to achieve the objective, and reasonable under the circumstances”.

17.9 General Instruction F64 provides as follows:

Warning Shots

- (1) *As a general rule, warning shots should never be fired.*
- (2) *However, there may be circumstances as outlined in General Instruction F61 where a warning shot may be appropriate.*
- (3) *The following principles must always be borne in mind:*
- (a) *Extreme caution is taken to safeguard the lives of others; and*
- (b) *The offender has, where practicable, been called upon to surrender and has failed to do so; and*
- (c) *The shot can be clearly aimed as a warning shot, is vertically in the air, in the open, or at an equally safe target elsewhere so as to safeguard the public and plainly*

demonstrate to the offender that he is in fact, receiving a warning and not being shot at.

Any misconception in this regard may precipitate the offending action that a warning shot is trying to prevent.

I am satisfied that Constable A's decision to fire a warning shot was appropriate and conformed with General Instructions F61 and F64. The warning shot was fired directly into the air and did not place any person at risk.

- 17.10 It is clear from a study of Constable A's statement that he was motivated to fire upon WALLACE out of fear for his own life. The Constable records on page 11 of his statement (refer CONST A) -

"After the warning shot I did tell him that I would shoot him if he came any closer.

Between the time that I got out of the car and he had begun advancing on me, and the time I fired the warning shot everything was happening very quickly and I am unsure how long this all took.

I fired the shot into the air , while continuing to go backwards. I had almost gone right back to the footpath on the opposite side of the road, near the sports shop. The offender at this stage was closer to me than he had been before and I would estimate that distance at 10 metres approx.

At this stage he was directly in front of me, with my back to the shops. Constable B was on my right hand side, about 20 metres further up McLean Street. At this stage I felt my exit was being closed. The offender was advancing more quickly and closing the gap significantly.

I genuinely feared for my life. He was continuing to say he was going to do something to me with the weapon that he was holding. He still held the baseball bat above his head in a threatening manner and his words were to the effect he intended me harm. He was continuing to advance towards me.

From the time I got out of my vehicle I continually reminded him that I was armed, that I would shoot him if he kept advancing. I said this time and time again as he was advancing on me down the street. The words and the manner in which I was given is something which we are trained in and is second nature.

I was shouting these words to him. There is no doubt that he heard what I was saying.

I never stopped retreating. My pace of retreat was constant but the gap was getting smaller."

Further in his statement at page 14 he records:

"Before I shot at the offender I believe I had exercised all other available options by retreating, firing a warning shot and shouting at him that I was armed. Given that the gap between him and I was getting smaller I believed if I turned and ran there was a high

probability that he would have been able to hit me as I retreated. Given the aggressive and persistent manner of his advance I feared for my safety if he did so.

As the offender was advancing towards me I could smell alcohol on him.

By this stage the distance I had retreated was 50 metres. Initially the gap between us was approximately 20 metres but eventually it was 5 and closing.

I did not consider using OC Spray on the offender. Things were happening very quickly, I had my hands full, he was continuing to advance and I did not have time. I had OC Spray on my left hand side. To have accessed that I would have had to holster my weapon, undo the pouch the spray was in, get it out, break the seal and activate the spray. Given the weapon that the offender had, attempting to use OC spray would have placed myself in greater danger.

I also did not consider using my baton at the point I shot the offender because I would not have had time and it would not have been effective against the baseball bat.

At the time I got out of the Police car I did not consider OC spray because of the distance between the offender and myself. It would have been ineffective at that distance which was approximately 20 metres.

When I got out of the Police car I would have had the baton in my hand but I elected to draw my firearm and placed the baton in the loop of my duty belt. I considered that the baton would be ineffective against the baseball bat and the other weapon he was holding.

At the time I shot the offender I did not consider I had any other options available to me, to defend myself. I was in fear of my life and he left me with no alternative but the one I took."

- 17.11 I take the view that these were reasonable fears which were soundly based taking into account the events, some of which Constable A had witnessed, and which characterised the offender as highly dangerous, hostile and acting irrationally.
- 17.12 General Instruction F61(3) provides that an offender is not to be shot until he has been called upon to surrender unless in the circumstances it is impractical or unsafe to do so.

Constable B clearly records in his statement at Page 9 that he said, "*Armed Police, drop your weapons*", or words to that effect. Constable A also clearly identified himself as being an armed Police Officer. WALLACE, the Constables state, totally ignored these and the eventual warning shot and continued his relentless advance on Constable A.

This failure by WALLACE to comply was a fair indication that he could not be disarmed without first being shot and that, in the circumstances, further delay in apprehending him (by the use of force) was dangerous and impracticable.

Justification for shooting WALLACE in self-defence, I submit, is established.

17.13 During the investigation I have remained alert for the appearance of any substantial inconsistencies which might cast doubt on the veracity of Constables A, B or C's accounts. In examining the accounts of a group of witnesses, it is almost inevitable that some inconsistencies will be apparent. While some minor inconsistencies might exist in this particular case, there are no significant inconsistencies between Constables A, B and C's accounts of events and the accounts provided by other key witnesses.

17.14 In summary, I believe that there has been no breach of General Instructions F60(2), F61(2), F61(3) or F64. I further believe that Constable A was justified in terms of Section 48 of the Crimes Act 1961 (self-defence) to use a firearm against WALLACE in the manner and for the reasons he did, and as further discussed in Section 22.

18 **FIREARMS TRAINING**

Firearms training for Police is regulated by General Instructions F182-187, under the heading "Firearms – Maintenance Training", (refer Appendix K). Firearms maintenance training for those Police not exempted is set at two training days annually, which preferably should be six months apart, G.I. F182(1). Specialist Squads receiving regular firearms instruction are exempted from this training, G.I. F182(2). The Specialist Squads affected are AOS, STG, DPS (Diplomatic Protection Squad) and VIP Squad.

AOS and STG members receive firearms training at a much greater frequency than General Duties Branch members. All AOS members are required to achieve qualification standard in the use of the Glock pistol and the AOS bolt action rifle, annually. Constable A qualified in both weapon types, two days prior to the incident, so the Officer was compliant with the AOS qualification standard at the relevant date. Specific reports indicating the nature of AOS firearms training during the past twelve months have been attached (refer Appendix K).

It will be apparent from a study of Constable A's AOS training record that prior to the shooting he had undergone firearms training on the following dates, within the last training year, ie 1 July 1999 – 30 June 2000.

27.07.99
26.10.99
22.01.00
22.02.00
27.04.00

Taking into account that the firearms maintenance training specification for General Duties staff is set at two days annually, it is suggested that Constable A had undergone more than adequate training in the use of the Glock 9 mm weapon to be classified as competent in its use.

Witness 13, Officer in Charge of the New Plymouth Armed Offenders' Squad, when interviewed, recorded the following insight into the New Plymouth AOS training regime and particularly as it relates to Constable A. (Refer TAB 31):

“As a Squad we train 12 days a year and cover a variety of scenarios, tactics, including Arms Training, First Aid Training, Use of Force training and scenario practice.

The most recent training the Squad was involved in was on the 27th and 28th of April 2000 at a full day's range training including the National AOS Glock weapons qualification shoot in which Constable A scored maximum points (reference AOS folder New Plymouth).

The same day Constable A also passed the qualification shoot with the 7.62 millimetre sniper rifle.

The National AOS Glock Qualification shoot involves shooting of a series of targets from various distances and positions including standing, prone, kneeling, shooting from cover using both the master and non master hands. Also undertaking magazine change operations under stress conditions.

This shoot is a mandatory qualification from all AOS members in New Zealand and is required to be undertaken annually but in New Plymouth we undertake this shoot up to six times yearly.

The details of the specifics are held in the AOS folder.

The qualification shoot involving the 7.62mm rifle involves a shoot starting from 200 metres and moving in in various positions including prone, sitting and standing up to a distance of 50 metres.

Constable A was top scorer in the rifle shoot. This shoot has a pass mark of 38, Constable A scored the top possible mark of 48.

This pistol and Glock training along with the rifle training was conducted on Thursday the 27th April.

On Friday the 28th April in the morning an exercise involving offender armed in a motor vehicle in a rural area who then moved to a dwelling where he concealed himself.

As with all AOS exercises and Operations the Squad was briefed by the O/C prior to going into the field.

On this occasion I was present but the O/C was Witness 12 as I am currently preparing for a six month deployment in East Timor.

Covered in this briefing was Fire Orders which include aspects of General Instructions F61 and the Crimes Act provisions relating to the use of force and the practical instructions relating to the current scenario.

Constable A was tasked as a leader of one of the two Sections in the field.

This exercise culminated in the shooting and wounding of the offender followed by the arrest using a Police dog attack.

As in all AOS exercises and real life situations and operations tactics of voice appeal were undertaken prior to the offender actions that necessitate the use of force.

Because this scenario involved a shooting the recognised post shooting procedure was also undertaken. This involves members where possible, holding their positions so that

a proper scene examination can be undertaken. The member need to be able to identify the position he was in when the shooting took place.

Following this exercise a series of building clearing exercises were undertaken of the dwelling, once again standard procedure at the end of an operation is to clear the building and declare it safe for other people.

We cleared the building several times just as extra practise.

In the afternoon the Squad returned to the range base or camp and a training session was held whereby we sat in a group and discussed the conditions that needed to exist before an offender could be shot.

We discussed these conditions in relation to General Instructions and the Crimes Act Sections relating to the use of force.

We referred back to a training day all staff had undertaken late last year which involved each member undertaking a written test of their knowledge of these Sections and conditions.

We then reinforced that members had a practical knowledge by discussing scenarios and situations whereby the shooting of an offender would or would not be justified".

19 **WAS A LESS VIOLENT OPTION AVAILABLE TO CONSTABLE A**

19.1 As previously discussed, the key principle for Police in dealing with an armed offender is to cordon and contain, then negotiate.

19.2 The ability of the Police to cordon and contain at most incidents and certainly those involving public places where an offender is mobile, depends on two main factors:

- time
- sufficiency of resource

In this particular incident as events have unfolded, neither of these critical factors were in the Police's favour. Even if the Police had been able to respond with sufficient resources to effectively cordon and contain WALLACE, on the evidence of those who encountered him early that morning, it is likely that he would have still threatened or attacked one of the cordon points. Certainly, if that had been an option and it wasn't given the available Police resources, each officer positioned at cordon points would have required arming with a firearm just as Constables A and B elected to do.

The next best strategy then is to do exactly what Constables A and B attempted to do, ie maintain a safe distance and position, observe and commence communication and negotiation in order to either:

- (a) talk the offender into submission;
- (b) buy some time until adequate back up can be assembled, or
- (c) both.

This was a sound and, in the circumstances, eminently sensible tactical strategy. Because the strategy failed, it should not be

concluded that it was the wrong option. In my opinion, it was the best option given all the circumstances and failed because of the special characteristics of this particular offender who, it appears, was in no mood to be conciliatory.

WALLACE gave Constables A and B no time at all to develop a strategy of communication and negotiation and rejected outright the attempts to do so by Constable A as he advanced on the retreating Constables.

19.3 **Police Dogs**

Deployment of a Police Dog and, preferably two dogs, in a co-ordinated two dog attack, is certainly a tactical option in circumstances of this nature. Again the tactic is dependent on time and the availability of the resource. A two dog attack, it should be noted, is very dependent on whether or not the individual dogs will work with each other.

As previously indicated, a Police Dog and Handler were recalled to duty to assist at Waitara and this deployment was instigated at 0359 hours. This followed an initiative from the New Plymouth Police Station. It is possible that the Officer whose initiative it was, formed that view as early as 0355 hours, at the time Constable A gave his sitrep but the single radio channel appears to have been jammed with successive communications. It was four minutes later that the New Plymouth Officer finally appears to get a gap in transmissions to confirm that Sergeant PRESTIDGE wanted the dog (Delta) patrol called out.

Events very quickly overcame Constables A and B and moved far too quickly for them to effectively utilise the dog patrol.

The luxury of hindsight is a wonderful thing and provides perhaps opportunity to consider how events might have unfolded had a Police dog been available for immediate deployment at the time of, or ahead of, Constables B and C.

For the purposes of this criminal investigation, I am mindful that my focus must remain fixed on the circumstances that existed at the time and not to speculate on what might have been.

Accordingly, I have not gone into any depth to explain or record the tactical deployment of Police dogs. That may, however, be a focus of the PCA investigation.

19.4 **Capsicum Spray**

Relevant sections of the Capsicum Spray Manual are appended at Appendix L and provide information in greater detail than will be contained in this section of the report.

It will be apparent from reading the statements of Constables A and B that they considered and rejected the use of capsicum spray as a safe

means (for themselves) of dealing with this offender WALLACE. Again it is reinforced both officers saw for themselves how aggressive and violent WALLACE was and independently of each other, proceeded to the Police Station to uplift firearms.

Readers of this report will understandably need to consider capsicum spray in terms of whether the force used by Constable A was reasonable in the circumstances, ie was there a more reasonable means or less violent manner available to him?

A useful starting point may well be the introduction to the Capsicum Spray Manual attributed to Commissioner DOONE, dated December 1997.

“While OC spray is an effective safety tool, two things must always be borne in mind. Firstly, it is not a panacea or a ‘cop in a can’. There will be times when, for a variety of reasons, it will either not work, or not work as effectively as hoped. In such cases officers must always be prepared to adopt other options, the choice of which will depend on the circumstances.

*Secondly, OC spray is only one less than lethal tactical option. Sufficient emphasis in training must be placed on the tactical options wheel so that officers fully understand the need to analyse a situation to determine the best available option to use. **Maintaining a safe distance and position, communication and negotiation are the first options to use in any potentially violent situation unless early recourse to force is absolutely unavoidable.**”*

The following extract from the Capsicum Spray Training Manual provides a snapshot of the information provided to Constables A and B during their OC spray training.

Effect of OC Spray

The effect of OC, 60% psychological and 40% physical on unprepared subjects are both rapid and debilitating, enabling members to control subjects with minimal physical contact. The eyes immediately shut due to an involuntary response known as blepharism. Breathing becomes temporarily difficult and there is inflammation and a burning sensation on any exposed skin. The mucous membranes secrete freely and there may be reduced muscle co-ordination.

Those who have been sprayed liken it to having been sprayed with acid, causing immediate shock, loss of original intent and reversion or survival mode.

Consequently, the subject needs to be constantly re-assured as to their well being in order to avoid panic.

Members need to be aware that in some instances exposure to OC Spray may result in minimal, or at time, no effect whatsoever. At all times members must be prepared to resort to other tactical options.

A recent study in Baltimore showed that OC Spray was effective 86% of the time. Studies have shown that a goal-driven person can fight the effects of OC Spray in order to achieve their objective. There is nothing stronger than the human will to accomplish a specific goal.

Officers need to clearly understand the inherent limitations of chemical products. It may or may not work effectively on violent or goal-orientated attackers.

Description of OC Spray Canister

The canister selected by the New Zealand Police is the "First Defence Mk-3 Aerosol Projector". This contains sufficient formula for approximately 8 one second bursts.

The spray incorporates an ultra-violet dye which remains on the subject some 24 hours after application. This feature will assist investigators in both the identification of offenders and in substantiating complaints from members of the public who claim to have been unjustifiably exposed to OC Spray.

The canister is fitted with a tamper proof seal which has to be broken prior to deployment, thus allowing for visual confirmation of the integrity of the canister.

What Does The Canister Do?

- 1 Discharge spray, under pressure, into the facial area of the subject, under all conditions of weather and temperature.
- 2 Ideally, release spray in an aimed shotgun type pattern.
- 3 Range: **1 metre to 3.5 metres**
- 4 A typical spray delivers approximately 4.4 grams of formulation during a one second burst.
- 5 Very low cross-contamination if used correctly.

Effective Distance

Maximum distance: 3 to 3.5 metres

Minimum distance: 1 metre

Deployment Policy

In support of the legislative authority New Zealand Police policy states:

Police members may only use OC Spray to:

- Defend themselves or others if they fear physical injury to themselves or others, and they cannot reasonably protect themselves, or others less forcefully, or
- Arrest an offender if they believe on reasonable grounds that the offender poses a threat of physical injury and the arrest cannot be effected less forcefully, or
- Resolve an incident where a person is acting in a manner likely to seriously injure themselves and the incident cannot reasonably be resolved less forcefully.

- Deter attacking animals.

OC Spray must not be used against persons offering passive resistance.

The deployment of OC Spray is considered serious physical control and as such, its use can only be justified when there is a need to prevent injury. The member must establish that the subject has demonstrated the intent to inflict injury either to the member, another person or themselves. This intent may be deliberate action or telegraphed through body language (demeanour) and/or verbalisation. The member just also establish that the subject has the physical capabilities to carry out the threat.

Authority to Carry OC Spray

Police policy dictates that OC Spray must only be issued to members who:

- Hold a position authorised by the District Manager as being one to which OC Spray can be issued, and
- Hold a current Police first aid certificate, and
- Hold a current OC Spray certification.

Policy requires that members' certification is valid for 12 months from the date of issue. Members must attend the yearly one hour OC Spray maintenance training to remain current. In order to be re-certified a member must hold a current Police first aid certificate.

This certification is valid for 12 months from date of issue.

Constables B and C each held a current OC Spray certification. It appears Constable A's certificate had expired two months earlier.

Carriage of OC Spray

Members will carry OC Spray whenever they carry a baton and/or firearm. An exemption may be granted by a District Manager in appropriate circumstances.

The following represents an extract from the OC Training Manual dealing with tactical deployment involving OC Spray.

The material and philosophies recorded are not necessarily confined to OC Spray deployment and provides useful reading in the overall context of this particular incident under investigation.

“TACTICAL DEPLOYMENT

Tactical Options Model Incorporating OC Spray

*The Tactical Options Model represents the various tactics which may be selected by Police during an incident. The core of the model is the **Safety First** philosophy which coupled with communication, is always*

present and continues throughout an incident. One or more of the various tactical options can be selected by a member in any order or combination, depending upon the member's assessment of the circumstances throughout the various stages of the incident.

The circumstances may include factors such as the size, special skills, age, sex of the subject/police; number of subject(s)/police present; weapons and the environment in which the incident occurs.

The role of the Police member is to apply the correct tactics and communication in order to bring about a peaceful resolution. The escalation/de-escalation of the incident may be, in some cases, dictated by the member's correct choice of tactics. A member must always constantly assess and re-assess the situation.

Members should be aware that their mere presence is a tactical option. Prior to deciding on this option members should analyse the situation, prepare a plan, make all possible inquiries about the subject and request any assistance deemed appropriate.

*The Tactical Options Model has identified nine options available to a member when attending any incident. These options should be considered before undertaking any task. The primary aim of the model is **Safety First**. This means safety of the member/public/offender.*

(1) Presence

The presence of the Police at any incident may often be enough to resolve the situation. Factors involved include manner of arrival, numbers of officers at the scene, physical appearance of the officer, etc. Assess, re-assess and evaluate the situation, and maintain a safe distance of at least two metres (reactionary gap). When communicating with a suspect adopt a field interview stance. Always consider back up.

(2) Other Tactics and Weapons

When attending an incident, the presence of other weapons and tactics by the offenders should always be considered.

(3) Tactical Withdrawal

When the circumstances dictate, give consideration to tactical withdrawal from an incident and awaiting back up, maintaining a safe distance, seeking cover and keeping observation if possible.

(4) OC Spray

The use of OC Spray at an incident is one of several use of force tactics that may be considered. Always consider the safety of yourself and other persons present.

(5) Empty-Hand Tactics

These include the common restraint and handcuffing holds such as the thumb wrist lock, and carotid hold.

(6) Negotiation

This involves communication with the offender(s). Negotiation is communication, persuasion, advice and instructions.

(7) Firearms

The use of a firearm by Police is an extreme option. General Instruction F61 applies.

(8) Baton

Both the long baton and short baton have their uses at incidents. Be prepared to use the baton in appropriate circumstances.

(9) Cordon and Contain

When the circumstances permit, especially in serious situations, cordon and containment of the offender is another option. Isolate the subject, contain the situation. Always maintain a safe distance and call for back up.

Police/Subject Factors Affecting Levels of Force

To assist in assessing what level of force is appropriate, the following factors must be considered:

Size:

A small subject may be controlled by a larger member using lesser control techniques than a smaller member. A smaller member may need to use control over a larger subject.

Gender:

Whether the subject of member is male or female must be considered because of the physiological differences.

Special Skill:

If it can be perceived from knowledge and experience that the subject possesses special fighting skills, i.e. they immediately take up a 'fighting stance', the member may have to consider other control options.

Age:

The age and physical ability of the Police and subject must be considered.

Multiple Offenders

If the member(s) are outnumbered then the level of force may need to exceed that necessary to control one person. (Withdrawing should be considered, as should back-up).

Multiple Police:

Lesser control techniques may be used when Police outnumber the subject.

Member Injured or Disabled:

Where the member is injured or disabled and is unable to effectively control the situation, there should be an immediate escalation of force to regain control and prevent any further injury.

Special Knowledge:

If the member possesses special knowledge about the person with whom he/she is dealing, e g the person is known to have violently assaulted Police, this knowledge will assist in determining the level of force to be used. Even if you know the subject, don't take chances.

Risk Assessment:

When assessing the degree of risk to yourself or others, in any given situation, the following points should be considered:

- *If the person has a weapon or access too, what type (gun, knife etc.)*
- *Are your exits easily accessible?*
- *Is the person under the effects of drugs, alcohol or mentally disturbed?*
- *Is the person amenable to communication?*
- *Is the person showing signs of mental disturbance?*
- *Do you have adequate resources and back up?*

If so, is OC Spray appropriate or some other option available.

Factors indicating an increase in the level of risk:

- *Increased level of physical activity, e g pacing, agitation*
- *Raised voices, e g shouting, screaming.*
- *Changes in body language, e g threatening stance, clenched fists, finger pointing*
- *Breathlessness*
- *Dilated pupils*
- *Flushed face*
- *Pressure of speech, abusive and derogatory remarks*
- *Threats of losing control and harming self or others.*
- *Seeking out or handling potential weapons*

Safety Principles

As with all plans, a risk assessment should be conducted taking into account nine safety principals:

Safety First:

The safety of Police, the public and offenders or suspect is paramount.

Risk Assessment:

Risk assessment is to be applied in all incidents and operations.

Take Charge:

Effective command and control must be exercised.

Planned Response:

Every opportunity should be taken to convert an unplanned response into a planned response.

Cordon and Containment

Unless it is impractical to do so, a "cordon and containment" approach is to be used.

Avoid Confrontation

A violent confrontation is to be avoided.

Minimum Force

Where force cannot be avoided, only the minimum amount necessary is to be used.

Forced Entry Searches

Forced entry searches are to be used only as a last resort.

Resources

It is accepted that the "Safety First" principles may require the deployment of more resources, more complex planning and more time to complete.

Extreme Caution : Armed Subjects

Extreme caution should be exercised where the subject is armed with a blunt edged weapon, or knife, as the distance required to deploy the spray effectively could expose members to unnecessary risk.

If a member knows an offender is to be armed with a firearm or knife then the response must be appropriate for meeting these weapons. The use of OC Spray in these situations may be an unnecessary risk as the member is required to get within 3.5 metres of the subject for the spray to work effectively.

Using OC Spray against a subject armed with a firearm should not normally be considered. However, circumstances may exist where its use would be appropriate, e g when another member is covering the subject with a firearm and the subject has placed his or her firearm on the ground, is still a risk and is not complying with instructions.

Double Threat

It is highly dangerous to have a handgun drawn in one hand and OC Spray in the other. The officer theoretically has the suspect covered by having both options available for immediate use. This is very dangerous for two reasons:

- 1 *It has been established in American studies that under high stress, the brain's message intended for one hand can go to both hands. A panic decision to spray is quite likely to wind up with a shot as well.*
- 2 *This technique results in both hands occupied by weapons. Empty hand defensive skills are best executed with at least one free hand.*

If a decision is made to fire the handgun, then a two handed shooting technique will probably be the most effective. If the situation dictates the option of the use of a firearm, disregard the OC Spray.”

In summary, possible alternative less violent means of resolving this particular incident and identified in this report include:

- Do nothing – wait and see but observe
- Turn and run
- Police dog deployment
- Capsicum spray
- Use of batons
- Physically overpowering the offender

I am satisfied for the reasons documented in the statements of Constables A, B and C, together with the independent accounts of eye witnesses to WALLACE's violent and dangerous actions, that objectively assessed Constable A's assessment, and the means he used, was reasonable in the circumstances.

19.5 **Batons**

Frontline New Zealand Police Officers are issued two types of baton for offensive and defensive purposes, the first being the traditional pocket sized wooden baton of approximately 30 cm (12 inches) in length and the second, the PR24 (long baton) which has been on general issue since the early 1980's. While the short baton offers very limited defensive capabilities, the longer PR24 can be, and is, used defensively in certain situations.

The dimensions of the long baton disclose an overall length of 60 cm (2 feet). When held by the short handle in the defensive position, the baton extends past the operator's hand by 15 cm (6 inches) with the remainder of the baton protecting the operator's forearm and extending towards the elbow.

In the process of collating this section of the Report I became aware that Detective Inspector BREW had requested a report from Constable

[*Deleted], the [*Deleted] District Rural Baton Instructor. The Constable is an Advanced Baton Instructor.

In his report (**Appendix Q**) Constable [*Deleted] records his expertise and experience with the PR24 and comments on the skill level required and potential consequences should a PR24 be used as a defensive weapon against a baseball bat wielding assailant.

In summary, Constable [*Deleted] records that Police Officers would place themselves at high risk of serious or mortal injuries if they attempted to block a swinging baseball bat with a PR24 and that to successfully do so would “require a very high level of skill to execute”.

Constable [*Deleted] observes that the impact absorbed by the baton in blocking a baseball bat swung forcibly could be sufficient to break the officer’s arms or hands and that while he/she might successfully block the first blow, the officer has still not diminished the threat of further attack

Arguably, the skill levels within the NZ Police in the use of the PR24 baton were at their highest during the 1981 Springbok Tour. During this period some protestors armed themselves with baseball bats and clubs. While not all Police involved in those demonstrations were issued with the PR24, many were and the level of confidence and skill gained at that time, particularly within some of the squads, was particularly high as a result of intensive instruction and consistent ongoing training.

Enquiry has also been made with a number of Police Officers, each of whom became exceptionally skilled during the 1981 Springbok Tour in the use of the PR24 baton, to ascertain whether the PR24 provided a realistic defence option against an offender wielding a baseball bat. The unanimous opinion being that a Police Officer would have to be extremely confident and proficient in his ability to contemplate using the PR24 defensively against a baseball bat and that to reach the required level of confidence and skill, weeks of training and consistent use of the PR24 would be required. Such levels of skill and confidence are unlikely to be found in the average frontline Police Officer other than those perhaps in Team Policing Units where consistent on-going baton training is a component of their deployment.

One of these officers who is currently a PR24 baton instructor, said that he would need a weeks consistent training to bring his own skill level to the point where he would confidently confront a baseball bat wielding offender with a PR24. This particular officer is also a District Firearms Trainer who observed that it was unquestionably simpler to master the Glock pistol than it was to achieve the degree of competency to successfully confront a baseball bat wielding offender with a PR24 baton.

In this particular case it is noted that Constable A initially contemplated using his PR24 as his weapon of self-defence and, in fact, had it drawn until the time Steven WALLACE threw the golf club at him. Constable A then replaced the PR24 into his belt retaining ring and

unholstered his Glock pistol, doing so because he concluded that the PR24 was not going to provide or afford him adequate protection.

A comprehensive training manual exists for the use of the PR24 and relevant portions of that manual particularly dealing with defensive blocking techniques are appended at Appendix '0'.

Based on the unanimous opinions of those Police Officers who have had significant 'combat' experience utilising the PR24 baton, there is no doubt that Constable A made the right decision in deciding to reject the PR24 in favour of his Glock pistol.

20 **Witness 2**

20.1 Because Constable A mistakenly believed that Witness 2 was the male Maori person he had witnessed breaking windows in and around Peter Budden Chemist and whom he later confronted in McLean Street, it has been necessary to investigate Witness 2's relationship with Constable A.

20.2 Accordingly, Witness 2 was located and interviewed and in his statement (Refer **TAB 34**) records:

*"My full name is Witness 2 and I live at [*Deleted], Waitara. My phone number is [*Deleted]. My date of birth is [*Deleted]. I am a [*Deleted]."*

I am speaking to Detective Constable ASHTON in regard to an incident which occurred on 30/04/00.

*I live at [*Deleted] by myself.*

I met Constable A when I was about 15 years old. We played in the Waitara Men's A softball team together.

We used to laugh because he had a wimpy throw. He was like a girl. At this time I found him to be a quiet good fella. He didn't say much.

Constable A was a traffic cop at the time. Then he changed to Police and I used to think he'd be too wimpy to be a cop.

Constable A has stopped me driving down the street a couple of times. It was just the usual stops. He's never given me a ticket or anything. He may have breathalysed me but I don't drink so nothing ever come of that.

A couple of times when my house has been raided by the Police Constable A has been there. This is for Search Warrants.

Constable A has never arrested me at any stage.

*Up until about a month ago I lived at [*Deleted] which is down the road from Constable A.*

*My parents also live at [*Deleted].*

I would have seen Constable A just about every single day to wave to.

I've never given Constable A a reason to arrest me nor do I know any reason why he would want to arrest me.

In the time that I've known Constable A I've never argued.

I feel that reflecting on this incident that first of all more respect should be given to human life and tighter control on the use of firearms.

I can't recall the last time I saw Constable A.

Also that there should be the no tolerance attitude of Police should be reviewed.

Witness 2 as read this statement and acknowledges that its correct but refuses to sign"

- 20.3 Constable A, when interviewed regarding knowledge of and dealings with Witness 2 stated:

"Witness 2 lives just down the road from me. We are on reasonable terms. I still believed it was Witness 2 who was approaching me. This is the reason I carried on talking to him. I thought I had a rapport with him. I had no reason to believe Witness 2 was a dangerous person and I had not found myself in conflict with him before. I was confident that if it was Witness 2 then I could talk to him."

- 20.4 In summary, while there is a 14 year age difference between WALLACE and Witness 2, there are some physical similarities that might explain the mistaken identity. Of interest, Constable A and Witness 2 live in the same neighbourhood and have done so for approximately 8 years. Witness 2 and Constable A are reported to have played together in the same softball team but that was 23 years ago when Witness 2 was 15 years old. Constable A has never arrested Witness 2 and there is no evidence of any animosity or ill-will between these two men.

The following provides a comparative profile of Witness 2 and Steven WALLACE. Candid photographs of both men are recorded on the investigation file.

COMPARISON BETWEEN Witness 2 AND STEVEN JAMES WALLACE

Name:	Witness 2	Name:	Steven James WALLACE
DOB:	[*Deleted]	DOB:	02/10/76
Address:	[*Deleted], Waitara	Address:	[*Deleted] Broadway, Waitara
Previous Address:	[*Deleted] Waitara		
Occupation:	[*Deleted]	Occupation:	Student Benefit
Race:	Maori	Race:	Maori
Height:	169 cms	Height:	174 cms

Build: Stocky
Place of Birth: Waitara
PRN: [*Deleted]
Convictions: [*Deleted]

Build: Medium/Stocky
Place of Birth: New Plymouth
PRN: [*Deleted]
Convictions: [*Deleted]

During their acquaintance Constable A has never arrested Witness 2. He has stopped him on routine stops and attended Search Warrants executed at Witness 2's address.

Clearly this is a genuine case of mistaken identity on the part of Constable A. There is no evidence that any animosity exists between Constable A and Witness 2 and certainly nothing to support the view that Steven WALLACE was shot because of any act of transferred malice by Constable A.

21 VICTIM FAMILY

From the inception of this investigation considerable difficulty has been experienced in communicating directly with the family of Steven WALLACE.

A number of very genuine endeavours to meet with the family by investigators and senior members of Police were rejected by the WALLACE family, despite approaches by local Police Iwi Liaison Officers.

In my experience I have never encountered a homicide investigation where the victim family has adopted such a position. I anticipated that a day or so after the tangi family members would make themselves available to be interviewed, but this was not the case.

Ultimately, following negotiation with Mr ROWAN, QC, representing the family, an arrangement was made to interview five family members on Friday 19 May 2000, ie Day 20 of the homicide investigation. As agreed with Mr

ROWAN, these interviews were confined to the 30 minute period Steven WALLACE was at home between 0315 and 0345 hours on 30 April 2000.

The family members interviewed were:

- Witness 5 ([*Deleted])
- [*Deleted] ([*Deleted])
- [*Deleted]
- Witness 23 ([*Deleted])
- [*Deleted]

Each of the five family members presented a typed statement to the investigators, dated 12 May 2000, following which they were independently interviewed and further written statements obtained.

In summary, the family state they have no idea what caused Steven to become so agitated at the family home around 0300 – 0340 on Sunday morning, 30 May 2000. There is the suggestion that Steven had been drinking and concern expressed that he shouldn't be driving. [*Deleted] states that at one stage she telephoned 111 to report that Steven was driving after drinking, but hung up the phone before speaking to the Operator.

It is clear, however, that whatever occurred at the family home was sufficiently threatening for [*Deleted] to uplift her [*Deleted] from their beds and walk them, together with the children's mother ([*Deleted]) to the home of Witness 23. Witness 23, it is noted in her statement, observes "[*Deleted] has never turned up on my doorstep like this before".

The statements of these family members are recorded on the investigation file, at **TABS 35, 36, 37, 38 and 39**.

22 **CRIMINAL LIABILITY**

Constable A

- 22.1 Seventeen minutes and thirty seconds elapsed between the time the Police Communications Centre advised New Plymouth patrols that someone was smashing windows at the Waitara Police Station, i e 03:46:03 hours, and Constable C advising the Comms Centre that Steven WALLACE had been shot at 04:03:35 hours.
- 22.2 In the intervening period, a great deal of violent activity occurred in and around the Waitara township as Steven WALLACE went on a rampage of destruction.
- 22.3 Much of what occurred during those 17½ minutes, while certainly material to this investigation in terms of background, is not central to the key issue to be determined, i e the force used by Constable A reasonable in the circumstances.

S.48, Crimes Act : *"Everyone is justified in using, in defence of himself or another, such force as in the circumstances as he believes them to be, it is reasonable to use."*

S.48 comprises both subjective and objective elements.

- (i) A belief (which is honestly held) the subjective test ie what Constable A believed.
- (ii) Force (which is reasonable), the objective test ie what any reasonable person would believe.

It is the force that must be reasonable, not the belief although the belief must be honestly held.

S.39, 40 and 41 of the Crimes Act contains provisions which justify the use of force as may be necessary to make an arrest; to prevent the escape or rescue of a person seeking to avoid arrest or to prevent serious violence.

As previously stated, there is no evidence that Constables A and B were actively endeavouring to arrest or prevent the escape or flight of WALLACE in the critical 60 seconds or so which elapsed from the time both Officers were confronted by WALLACE, retreated and he was shot.

While the arrest of WALLACE may well have been an objective, there is no evidence that Constables A and B, having armed themselves, in fact formulated such a plan and if they did collectively or individually, they did not, on the facts other than by their presence 30 metres distant, indicate by words or action any such intention, that is until Steven WALLACE went on the offensive and Constable B drew his pistol.

While other alternative and less violent applications of force including capsicum spray and batons have been promoted by some observers, it is important to recognise that Constables A and B quite independently of each other and without any possible collaboration, believed they needed to arm themselves with firearms. Not to kill WALLACE but to protect themselves. Had Constable A, for example, as a highly trained Police sniper, formed the belief in advance that he would in all probability have to shoot WALLACE, he might well have elected to uplift a rifle rather than a pistol.

On the evidence, Constables A and B independently observed WALLACE's violent and destructive activities and considered their options. Both Officers were armed or had access to capsicum spray, both Officers were armed with PR24 batons. Both Officers independently concluded that capsicum spray and batons would not provide them with an adequate level of protection and elected to arm themselves with pistols.

Whatever objective assessment is now made of that decision, the fact is they didn't utilise capsicum spray or batons to defend themselves, they decided to use firearms.

It is important to then establish the critical time frames which follow that decision by Constables A and B to arm themselves.

We know from the real time Comms Centre audio log, Appendix H, that at 04:01:07 hours Constable B was inside the Waitara Police Station speaking to Constable C over the radio at which time Constable C provides the following sitrep:

04:01:07 C YEAH, HE'S JUST GONE UP. HE'S SMASHING ALL THE WINDOWS UP AT THE NEXT BLOCK NOW.

04:01:12 B ROGER, WE'LL BE THERE SHORTLY *(implying that Constables A and B are together at this point)*

04:01:15 C SHALL I COME BACK AND GET YAH? *(Implying Constable C was away from the Police Station and believed to be parked on the intersection of Domett and McLean Streets).*

04:01:24 C HE'S NOW GETTING BACK IN HIS CAR AND I THINK HE'S GOING TO HEAD DOWN THIS WAY.

04:01:42 C HE'S NOW GOING POST OFFICE, AH NAH THE MAJOR DECORATING SHOP.

04:02:04 C WHAT DO YOU WANT ME TO DO?

04:02:07 B STAY THERE.

04:02:22 NP YEAH THERE'S POLICE OUT, OUT THERE KEEPING OBS.

04:02:29 C YEAH WELL THE UM, CONSTABLE B AND THAT ARE OUT WITH HIM NOW.

04:02:41 BTS C FROM NEW PLYMOUTH.

04:02:42 C GO AHEAD.

04:02:43 BTS YEAH EXACTLY WHAT'S GOING ON NOW?

04:02:48 C B AND A ARE OUT THERE WITH FIREARMS AND THIS GUY IS JUST MOUTHING OFF AT THEM AT THE MOMENT. HE'S JUST WALKING ALONG. HE'S GOT THIS BIG BAR, BUT THEY'RE STAYING QUITE A WAY BACK.

04:03:01 BTS WHAT'S HIS CURRENT LOCATION EXACTLY BY THE NAME OF A STORE OR OTHERWISE?

04:03:06 C HE'S ABOUT 20 METRES UP TOWARDS NEW PLYMOUTH FROM THE POST SHOP AND HE'S, HE'S UM, REALLY AMPED UP. HE'S HEADING DOWN THE ROAD TOWARDS CONSTALE A. THEY MIGHT HAVE TO TAKE HIM DOWN. HERE HE COMES.

04:03:33 C YEAH HE'S DOWN. CAN WE GET AN AMBULANCE OUT HERE?

At 04:02:29 we have the first indication from Constable C that Constables A and B are "*out with him (WALLACE) now*". Seventy

four seconds earlier, it is clear Constables A and B were still at the Police Station because at 04:01:15 Constable C said, "*Shall I come back and get yah?*", meaning to the Police Station.

The critical timeframe and focus in considering the criminal liability of Constable A then, is that period between 04:02:29 hours when he and Constable B are within view of Constable C until 04:03:33 hours when Constable C confirms that WALLACE is down, a period of 64 seconds.

It will be helpful at this time to return to the interview of Constable A and to reflect on the fact that he, on the evidence, did not unlike Constable B, immediately draw his firearm but rather endeavoured to make voice contact and negotiate with WALLACE. It was only after WALLACE had thrown the golf club at Constable A that he took the pistol from its holster, as WALLACE advanced towards him.

At Page 10 of his statement (refer **TAB CONST A**) Constable A records:

"After he had thrown the golf club at me and I had pulled my weapon, he advanced quicker on me than what he had done. I was retreating very quickly, taking backward steps.

At one stage he said to me, holding the baseball bat up, if he got me he was going to do me or harm me (or words to that effect). I believed at that time if he got to me he intended to do me some serious harm. I got this from his words and his actions.

It seemed to me that things were escalating at this point.

I was quite convinced that he would attempt to get me.

I fired one shot into the air, a warning shot. At this stage I would have retreated about half of the block from my original position. The gap between me and the offender was still the same, about 20 metres.

The warning shot was directed up into the air.

When he heard the warning shot he kept on coming towards me. He was coming at a constant pace, fast.

After the warning shot I did tell him that I would shoot him if he came any closer.

Between the time that I got out of the car and he had begun advancing on me, and the time I fired the warning shot everything was happening very quickly and I am unsure how long this all took.

I fired the shot into the air, while continuing to go backwards. I had almost gone right back to the footpath on the opposite side of the road, near the sports shop. The offender at this stage was closer to me than he had been before and I would estimate that distance at 10 metres approx.

At this stage he was directly in front of me, with my back to the shops. Constable B was on my right hand side, about 20 metres further up McLean Street. At this stage I felt my exit was being closed. The offender was advancing more quickly and closing the gap significantly.

I genuinely feared for my life. He was continuing to say he was going to do something to me with the weapon that he was holding. He still held the baseball bat above his head in a threatening manner and his words were to the effect he intended me harm. He was continuing to advance towards me.

From the time I got out of my vehicle I continually reminded him that I was armed, that I would shoot him if he kept advancing. I said this time and time again as he was advancing on me down the street. The words and the manner in which I was given is something which we are trained in and is second nature.

I was shouting these words to him. There is no doubt that he heard what I was saying.

I never stopped retreating. My pace of retreat was constant but the gap was getting smaller.

I then fired three shots. I shot instinctively at the offender. It was dark, there were just three shots in his general direction. They were three shots in rapid succession.

As I fired the three shots I fixed myself to the ground which is an armed offenders post shooting drill.”

Having made the decision he did to take his pistol from his holster and present it at WALLACE, Constable A was committed from that point to using the firearm as his weapon of self-defence. The distance between himself and WALLACE was at best 20 metres and closing quickly.

Constable A continues at Page 15:

“I did not consider using OC Spray on the offender. Things were happening very quickly, I had my hands full, he was continuing to advance and I did not have time. I had OC Spray on my left hand side. To have accessed that I would have had to holster my weapon, undo the pouch the spray was in, get it out, break the seal and activate the spray. Given the weapon that the offender had, attempting to use OC spray would have placed myself in greater danger.

I also did not consider using my baton at the point I shot the offender because I would not have had time and it would not have been effective against the baseball bat.

At the time I got out of the Police car I did not consider OC spray because of the distance between the offender and myself. It would have been ineffective at that distance which was approximately 20 metres.

When I got out of the Police car I would have had the baton in my hand but I elected to draw my firearm and placed the baton in the loop of my duty belt. I considered that the baton would be ineffective against the baseball bat and the other weapon he was holding.

At the time I shot the offender I did not consider I had any other options available to me, to defend myself. I was in fear of my life and he left me with no alternative but the one I took.”

When a Police Officer presents a firearm at a person whom he believes is about to attack him, and particularly when that person

continues to advance despite verbal warnings and despite the firing of a warning shot, he has essentially three possible options:

- (i) do nothing and see what happens;
- (ii) turn and run; or
- (iii) shoot the assailant in self-defence

Unless he or she froze in fear, it is unreasonable on any objective assessment to expect that any trained Police Officer should or would adopt option (i).

Constable A considered the second option and rejected it believing it a high probability that he would be hit as he retreated. Again, when considered objectively it would take a 44 year old of considerable physical agility and confidence to back himself against a fit athletic 23 year old, even given a few metres head start, and this outcome ignores any consideration of sense of duty or indeed, loyalty to his colleague who might likely become the new focus of WALLACE's attention.

That leaves option (iii). By this time there were no other credible and less violent tactical options available. Faced with an aggressive, violent and armed offender, Constable A, with the distance between ever diminishing, simply had to 'draw a line in the sand', effectively saying this far and no further. Just where one draws that line may be a moot point and there may well be a 'no man's land' somewhere in the middle, i.e. between the point where the use of lethal force cannot be justified to a point where it on any objective assessment is justified.

It's all a question of timing. If a Police Officer has a loaded firearm trained on an approaching armed offender and he waits too long, then the contest will be one to gain control of the firearm. This would be a desperate situation and no Police Officer can ever be expected to exercise such brinkmanship.

There may be some who might consider that Constables A and B could have 'jumped' or grappled with WALLACE. That point of view would ignore the factors already discussed particularly the point that once the pair had drawn their firearms, they had no realistic opportunity even if they wished, to re-holster the pistols and select a less violent alternative means of self-defence.

Constables A and B were now committed in that they had their firearms drawn. Certainly the prospect of two Police Officers physically engaging an armed offender while themselves holding loaded pistols, is a frightening one indeed.

Other observers might suggest that three trained Police Officers should have been able to handle this situation in a less violent manner.

This proposition ignores the fact that Constable C had effectively lost physical contact with Constable B from the time Constable B went into the Waitara Police Station to obtain a firearm. While Constables B

and C did maintain radio contact, Constable C, who had been instructed to remain in the patrol car to keep observations and provide sitreps, did exactly as she was required to do.

From the time WALLACE went onto the offensive particularly given the armed status of Constables A and B, there was no prospect of Constable C becoming physically involved.

Constable A, as previously indicated, was operating on the basis that it was just he and Constable B at the scene. If he had been aware of Constable C's presence outside the Police Station on his arrival, he appears not to have registered it.

TIMING

The central issue with this particular Police shooting and indeed most Police shootings, is timing.

What were the circumstances existing at the time that Constable A made his decision to shoot? Not what might have been had he or some other officer adopted a different tactical approach.

It cannot be assumed that time is on the side of the Constables and that they would have been better to wait because that might be a safer or more prudent option. We simply cannot say if that might have been so.

General Instruction F61 provides very clear guidelines for Police Officers whether to shoot or not to shoot and after that, it becomes a matter of judgement based on the circumstances that exist at the moment of confrontation.

Constable A's 13 years of AOS training experience involving countless 'shoot/don't shoot' scenarios and exercises, has thoroughly prepared him for the decision he took.

It perhaps should not pass without comment that within 15 minutes of being woken from his sleep, Constable A was standing in the main street of Waitara having shot a man in self-defence. In that process and the minutes leading up to the shooting, he was required to adhere to a number of General Instructions involving the carriage and use of firearms and to consider provisions of the Crimes Act in terms of justification in the use of excessive force.

In this regard, Constable A has complied with the critical General Instructions. I am satisfied on any objective test, that his actions in shooting Steven WALLACE were reasonable and justified in terms of S48 of the Crimes Act 1961.

Constable B

I have not considered in detail Constable B's criminal liability other than to observe that the overwhelming evidence indicates that he did

not discharge his firearm. Constable B, on the facts, has committed no offence. Because Constable A (in my view) is not culpable for the death of Steven WALLACE, there is no requirement to consider Constable B as a party, ie in terms of S.66 Crimes Act 1961, for the death.

Steven WALLACE

I have not considered it necessary to discuss in detail the criminal liability of Steven WALLACE other than to conclude that he was found in possession of offensive weapons, namely a golf club and baseball bat. S202A Crimes Act 1961

WALLACE is also criminally responsible for the intentional damage to buildings and vehicles. Section 11, Summary Offences Act 1981.

WALLACE, prima facie, is also liable for assaulting (attempts) Constables B and C, and the taxi driver Witness 28 when he has attacked them in their respective vehicles. Section 202C, Crimes Act 1961.

WALLACE has also committed an assault on Constable A (attempt) when he threw the golf club at him. Section 202C, Crimes Act 1961.

23 **CONCLUSIONS**

The following conclusions have been compiled following a detailed investigation into the circumstances leading up to and particularly immediately prior to, Steven WALLACE being shot by Police.

These conclusions follow a careful examination of the principal scene including forensics, ballistics and toxicological examinations. The testimony of a number of key witnesses has significantly contributed to the formulation of the conclusions.

- 23.1 That in the 15-20 minutes which immediately preceded his being shot by Police, Steven WALLACE was acting in an irrational, destructive, threatening and dangerous manner in various public places within the Waitara township.
- 23.2 That during that period he embarked on a rampage of destruction directed at various buildings in Waitara including the Police Station, Fire Station, New World Supermarket and other businesses situated in McLean Street, Waitara.
- 23.3 That within that 15-20 minute period he attacked and damaged with a golf club, an occupied taxi and Police patrol, drove dangerously and at speed narrowly avoiding at least two collisions with a motorist and a cyclist.
- 23.4 That Steven WALLACE threatened to attack an occupied motor vehicle owned and driven by Witness 16.

- 23.5 That after Constables A and B had independently observed WALLACE's violent activities they, without collaboration, quite correctly concluded the need to arm themselves with firearms for self-defence purposes.
- 23.6 That in initially approaching WALLACE from a safe distance, Constables A and B did nothing to provoke WALLACE, other than by their presence.
- 23.7 That only after initially approaching WALLACE and realising he had armed himself with a golf club and baseball bat did Constable B draw his pistol and identify himself as an armed Police Officer.
- 23.8 That Constable A kept his pistol holstered until WALLACE threw a golf club at him.
- 23.9 That Constables A and B immediately adopted a defensive, conciliatory retreating response in direct contrast to WALLACE's offensive and threatening advance.
- 23.10 That Constable A repeatedly, as he retreated, endeavoured to communicate and negotiate with WALLACE, calling on him to desist while advising that he was armed.
- 23.11 That Constables A and B retreated over a distance of 60 metres during which time WALLACE significantly reduced the distance between himself and Constable A from approximately 20 metres to approximately 5-6 metres.
- 23.12 That the firing of a warning shot by Constable A was appropriate in the circumstances but did nothing to deter WALLACE's advance.
- 23.13 That having drawn his firearm in self-defence, Constable A had no opportunity to adopt a less violent means even had he considered that to be an option.
- 23.14 That in the face of what appeared to be an imminent physical attack involving a baseball bat, Constable A had to take a positive action or risk losing control of his own weapon and serious injury to himself.
- 23.15 That Constable A genuinely feared for his own life and shot WALLACE in an act of self-defence.
- 23.16 That Constable B also genuinely feared for Constable A's life and seriously contemplated shooting WALLACE in self-defence of Constable A and himself.
- 23.17 That in the circumstances they found themselves in, Constables A and B could not reasonably have adopted a less violent means in self-defence.
- 23.18 That Constables A and B conformed with Police General Instructions and relevant sections of the Crimes Act 1961 relating to the carriage

and use of firearms. General Instructions F60, F61 and F64 and S48 (self-defence) Crimes Act 1961.

- 23.19 That on the facts Constable A is not culpable for the death of Steven WALLACE. Neither is Constable B as a party, ie Section 66 Crimes Act 1961.
- 23.20 That while issues of fact are more properly the domain of a jury, it is considered that no jury properly directed could, beyond reasonable doubt, find that Constable A shot Steven WALLACE other than in self-defence.
- 23.21 That Steven WALLACE died as a direct result of an unsurvivable gunshot wound to his liver and that no act or omission by any person to render first aid or other emergency treatment could have saved his life.

24 **RECOMMENDATIONS**

- 24.1 That no criminal charges be preferred as a consequence of Steven WALLACE's death.
- 24.2 That this report and the investigation file be submitted for an independent legal opinion.
- 24.3 That if the above recommendation (24.1) is upheld, an early pragmatic response to the WALLACE family's request for full disclosure be acceded to.
- 24.4 That in the public interest the New Plymouth Coroner be encouraged to conduct a comprehensive hearing into the death of Steven WALLACE , so that the facts relating to this death are established in an open transparent manner.

BRIAN PEARCE
DETECTIVE INSPECTOR