

Police Complaints Authority (Conditional Name Protection) Amendment Bill

Member's Bill

Explanatory note

This bill gives individual police officers involved in firearms incidents while carrying out their duty, conditional name protection until the Police Complaints Authority investigation is completed. There is a real risk in a small country like New Zealand that police officers or their families could be endangered by having their names published after an incident.

The legislation is now necessary after the High Court's landmark decision on *A Plaintiff v. Wilson and Horton*. Over the last 60 years, there has been a convention not to name police officers involved in shootings while on duty. The court ruled that publication was allowed and the National Business Review (among others) published the officer's name.

Providing the police officer meets certain conditions, name protection will last until:

- (a) the Police Complaints Authority investigation is completed;
or
- (b) the officer is charged with a crime related to the investigation;
or
- (c) the Authority permits publication; or
- (d) a High Court Judge rules that the public is best served by allowing the name of the officer to be published.

This bill covers only Police Complaints Authority investigations involving police use of firearms. It is because of New Zealand's conservative tradition of police not normally carrying or using firearms that their lives are often put in added danger. Although the High Court ruled, "there can be no right of privacy in respect of an action by a public officer in the course of his public duties in a public

street” and therefore should not receive special protection, this bill purports that New Zealand police take on extraordinary risk in the course of duty. It is only natural justice that they and their families are not further penalised or endangered by having their names published, at least until the Police Complaints Authority has released its findings or they are charged with an offence.

Dr Paul Hutchison

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Police Complaints Authority (Conditional Name Protection) Amendment Act **2002**.
- (2) In this Act, the Police Complaints Authority Act 1988¹ is called "the principal Act". 5
- ¹ 1988 No 2

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 New section 19A inserted

The principal Act is amended by inserting, after section 19, the following section: 10

"19A Authority may prohibit publication of identity of member of police

- "(1) Where any investigation is being conducted by the Authority under section 19(b), no person may publish, in any report or account relating to the investigation, the name of any member of the police under investigation for an incident involving police of use of firearms which contributed to the death or serious injury of any person, or any name or particulars likely 15

- to lead to the identification of such member of the police or his or her immediate family, unless—
- “(a) the Authority permits such publication; or
 - “(b) at the time of the publication of the report or account, the member of the police is charged with an offence which is the subject of, or related to, the investigation by the Authority; or
 - “(c) a High Court Judge determines that the public interest is best served by not protecting the identity of the member of the police.
- “(2) Every person who breaches the prohibition on publication contrary to **subsection (1)** commits an offence and is liable on summary conviction to a fine not exceeding,—
- “(a) in the case of an individual, \$5,000; or
 - “(b) in the case of a body corporate, \$20,000.”