



**IPCA**

Independent Police  
Conduct Authority

Mana Whanonga Pirihiimana Motuhake

# Use of force against man in Christchurch justified

1. On Friday 26 November 2021, Police officers used force against a man (Mr Z) who was advancing on them with a knife. Mr Z sustained a compound fracture and dog bite to his lower right leg which required surgery and ongoing care.
2. Earlier in the day Mr Z had stolen two vehicles and Police had pursued him at times between Timaru and Rolleston. He crashed the second stolen vehicle in Rolleston before attempting to steal a third vehicle at knifepoint. When this attempt failed, Mr Z ran from the vehicle. Armed Police later found him at a rural property and arrested him.
3. We investigated Mr Z's complaint that:
  - 1) Police unnecessarily released a dog on him after he had already surrendered and was restrained on the ground; and
  - 2) the resulting dog bite caused the fracture to his leg.

## The Authority's Findings

**Issue: Were Police justified in using force against Mr Z?**

The officers were justified in using force against Mr Z in defence of themselves and each other.

Mr Z had not already surrendered to officers when the Police dog was used on him.

The dog bite did not directly cause the fracture to Mr Z's leg.

# Analysis of the Issue

## ISSUE: WERE POLICE JUSTIFIED IN USING FORCE TO ARREST MR Z?

---

4. In this section we outline the evidence we gathered during our investigation and describe the events leading up to Police using force against Mr Z. We then assess whether the officers were legally justified in using force under section 48 of the Crimes Act 1961, which covers force used by anyone to defend themselves or another person. This requires us to consider whether the force the officers used was necessary, proportionate, and reasonable in the circumstances as the officers understood them to be. We also discuss whether the Police dog bite caused the fracture to Mr Z's leg.

### What were the circumstances leading up to Mr Z's arrest?

5. In November 2021, Mr Z had just completed a period of home detention and was living in Hampden, south of Oamaru, when he decided to attend a friend's funeral in Christchurch.
6. Mr Z was a disqualified driver. None of his support people would agree to drive him to the funeral, so Mr Z decided he would steal a car to travel to Christchurch.
7. On the morning of 26 November 2021, Police received a report that Mr Z had stolen a car in Timaru and travelled to Geraldine, and that he had a firearm with him.
8. At 8.18am that day, Police found the stolen car at Geraldine and identified Mr Z as the driver. Mr Z sped off in the car. Police did not pursue him.
9. At 8.26am the Emergency Communications Centre (Comms) directed officers to travel to the Geraldine area to establish a cordon<sup>1</sup> and set up road spikes to stop the car. Officers did both, but Mr Z avoided the spikes by driving on the wrong side of the road and continued on his way.
10. Police received 40 driving complaints about the stolen car from members of the public. The reports indicated that Mr Z was driving north, so Police made plans to spike the car at the Rakaia River bridge.
11. To ensure public safety, Police decided to block southbound traffic near the bridge. Once the car drove onto the bridge, northbound traffic would also be stopped.
12. At 9.20am Police successfully spiked the car at the Rakaia railway bridge. Mr Z drove quickly over the bridge and crashed into a southbound utility vehicle (ute) parked to the side of the road, which was one of the vehicles Police had stopped.
13. A woman who was parked in her car behind the ute began to get out of her car to assist Mr Z after he crashed. She was startled to see Mr Z suddenly standing next to her car door, demanding she get out and give him her car.

---

<sup>1</sup> A cordon is a line of Police officers preventing access to or from an area.

14. The woman fought with Mr Z, trying to close her car door for a short time before he reached in and pulled her from the car. Her passenger also got out of the car as Mr Z entered it. Mr Z then drove off.
15. Police attempted to spike the second stolen car on the Selwyn River bridge, before Comms instructed them that the pursuit had been abandoned and that no further spiking attempts should occur.
16. Mr Z crashed the second stolen car a short time later at the Weedons Road interchange, near Rolleston.
17. Following the crash, Mr Z ran from the car to a nearby Allied Service Station where he attempted to take a third vehicle at knifepoint. The attempt was unsuccessful, and Mr Z ran off.

### *Police find and confront Mr Z*

18. Police from Christchurch, including Officers A and B, were called out to assist in searching for Mr Z. On the way to Rolleston, Officers A and B familiarised themselves with Mr Z's photograph and history and turned their minds to the Police's fire orders (instructions which set out the circumstances under which Police may use firearms).
19. Shortly after Officers A and B arrived in Rolleston, a woman from a property near the Allied Service Station called Police to report that there was a man hiding in bushes in her garden.
20. Officers A and B joined other officers at the property. Officer B and an Armed Offenders Squad (AOS) officer (Officer C) cordoned the property from the south and Officer A cordoned from the east. Other staff cordoned the north and west.
21. An AOS dog handler (Officer D) also arrived at the property and began to track Mr Z from the garden with his dog, calling out to announce the presence of the dog and telling the man to come out with his hands empty and above his head. Shortly afterwards, Officer D heard someone running from the bushes and be confronted by other officers.
22. Officer E, who was acting as cover man for Officer D, saw a man he recognised as Mr Z running from the bushes carrying a long-handled axe.<sup>2</sup> Officers D and E followed Mr Z with the Police dog. They saw Mr Z climb over a low wooden fence and jump into a paddock at the front of the house.
23. Officers D and E followed Mr Z over the fence and saw that Officers B and C had confronted him. Officer B was armed with a Taser and Officer C was armed with an M4 rifle.
24. Officer C shouted at Mr Z: "*armed Police, drop the weapon!*" Mr Z dropped the axe he was carrying but kept hold of a black-handled knife, which he used to threaten the officers while he kept moving forward towards them.

---

<sup>2</sup> A cover man is an armed officer used to protect the dog handler while they are working with the Police dog.

25. Officer A quickly joined Officers B and C from the side of the property he had been cordoning. He was also armed with a Taser.

#### *Initial uses of force*

26. As Officer A arrived at the paddock, Officer B fired his first Taser cartridge at Mr Z. The Taser had no effect on Mr Z and he continued to move towards the officers. Officer A then readied his Taser.
27. Officer B fired his second Taser cartridge at Mr Z, and seconds later Officer A fired his first Taser cartridge at Mr Z. These two Taser discharges were also ineffective, with Mr Z simply brushing off the wires and continuing to advance.
28. Mr Z then began to target Officer C, who was armed with a rifle and standing some metres in front of Mr Z. Mr Z advanced on Officer C with the knife raised and yelling *“shoot me, fucken shoot me!”* Officer C started to back away from Mr Z.
29. Mr Z told us that he *“knew it was over so I was basically trying to go out in a blaze of glory, get shot”*. He also believed that maintaining his hold on the knife would *“increase the percentages of me being shot”*.
30. Although Officer C continued to move backwards to try to keep some distance between himself and Mr Z, Mr Z was advancing aggressively and quickly moved to within 5-7 metres of Officer C.
31. Officer C says that he called out to the other officers, something along the lines of *“do something or I will have to shoot him”*. Officers A, D and E determined that they needed to take immediate action to defend Officer C.

#### *Subsequent uses of force*

32. Almost simultaneously, Officer A discharged his second Taser cartridge at Mr Z (the fourth Taser firing overall) and Officer E fired a 40mm sponge round at Mr Z.<sup>3</sup> The fourth Taser discharge and the sponge round both hit Mr Z, who fell to his hands and knees, still holding the knife.
33. Within seconds, Officer D also deployed the Police dog onto Mr Z's right leg.
34. At almost the same time as the Police dog was deployed, and while Mr Z was partially incapacitated from the Taser and sponge round, Officers A and C both ran towards Mr Z to restrain him.
35. Officer C pushed Mr Z's head and right shoulder down towards the ground to prevent Mr Z from getting to his feet. Mr Z then fell chest-down with his right arm (still holding the knife) under his chest and across to his left-hand side. Officer A was on Mr Z's left and attempted to kick the knife away from Mr Z's hand.

---

<sup>3</sup> Police use 40mm 'sponge rounds' fired from a launcher (the eXact iMPact XM1006) as a "less lethal" tactical option. Only qualified AOS and STG officers may fire sponge rounds, and the range for this weapon is up to 25-30 metres.

36. Mr Z continued to struggle with Officers A and C while he attempted to free his hand holding the knife. Officer C says he then struck Mr Z in the face 2-3 times to distract him and get him to drop the knife.
37. Mr Z then dropped the knife to protect his face, which enabled Officer A to kick the knife away and grab hold of Mr Z's left arm.
38. Officers A and C then each held one of Mr Z's arms. Another officer took hold of his left leg and the Police dog held the right leg. Even so, Officer A noted that it took officers between 15 and 30 seconds of struggle with Mr Z to get him into handcuffs.
39. Once Mr Z was under control and handcuffed, Officer D released the Police dog from Mr Z's leg.

### Mr Z's recall of his arrest

40. At interview, Mr Z said that although he still had hold of the knife and had been attempting to get the officers to shoot him, once he was hit with both the fourth Taser and the sponge round, *"the fight had gone out of me"*.
41. Mr Z says that at this point he *"gave up, put my hands on my head, laid on the ground like I was told, got folded up in a restraint position by the Police"*. He says that Police deployed the dog onto his leg after he was on the ground and being restrained.
42. Although Mr Z says that he gave up and surrendered, there was no outward appearance of this according to the officers present at the time. They say that Mr Z only stopped running because he was halted by the fourth Taser and sponge round, and he did not release the knife until he was restrained on the ground.
43. Mr Z's version of events is markedly different from the officers' statements. Mr Z admits that he had taken cannabis earlier in the day and it is therefore possible that his recall of events may be unreliable. In light of this, and considering the consistency in the officers' versions of events, the Authority has preferred the officers' evidence.

### Were Police legally justified in using force against Mr Z to defend themselves or others?

44. The officers have said their uses of force were justified under various sections of the Crimes Act 1961. However, all officers have predominantly defended their actions on the basis that Mr Z was aggressive and advancing on officers with a knife, and they believed Mr Z would not hesitate to use that knife to injure or kill if he got close enough to them. We have therefore assessed their uses of force under section 48 of the Crimes Act 1961.
45. Section 48 provides that any person, including a Police officer, is legally justified in using *"reasonable"* force in defence of themselves or another.
46. Under section 48, we must assess the officer's actions on both:
  - a subjective basis (that is, what the officer genuinely believed); and

- an objective basis (what a “reasonable” person would have done).

47. This assessment involves three questions:

- a) What were the circumstances as the officer believed them to be (a subjective test)?
- b) Was the officer’s use of force against the person for the purpose of defending themselves or another (a subjective test)?
- c) Was the officer’s use of force against the person reasonable in the circumstances as the officer believed them to be (an objective test)?

*What were the circumstances as the officers believed them to be?*

48. Although Mr Z had dropped the axe when Officer C ordered him to, he was still armed with a knife which he was using to threaten the officers. The officers had commanded Mr Z to put down the knife several times and he had refused to do so.

49. Based on Mr Z’s attempted carjacking at knifepoint earlier in the day, the officers knew that Mr Z was prepared to use the knife as a weapon. As noted above in paragraph 44, the officers all said they believed that:

- Mr Z would not hesitate to use the knife to injure or kill if they got close enough or if they attempted to take hold of him;
- Mr Z had begun to target Officer C and was attempting to force Officer C to shoot him through his continued use of the knife; and
- Officer C was in imminent danger of being stabbed by Mr Z if they did not act quickly to prevent it.

50. We are satisfied that the officers genuinely held these beliefs.

*Were the officers’ uses of force for the purpose of defending themselves or another?*

51. Mr Z was aggressive, was threatening officers and, within a very short time, had targeted Officer C by advancing quickly on him while holding a knife.

52. The officers all say that they used force to defend themselves and/or Officer C specifically from Mr Z’s advance with the knife. Mr Z continued to act in a highly agitated, aggressive manner and would not release the knife. He remained an imminent threat to all officers present, but particularly Officer C whom he had targeted.

53. We accept that all the officers acted in defence of both themselves and other officers from the threat presented by Mr Z’s actions with the knife.

*Were the officers' uses of force against Mr Z reasonable in the circumstances as they believed them to be?*

54. The officers considered other, less forceful, tactical options before using Tasers against Mr Z, but believed they were unworkable in the circumstances. The officers had tried to communicate with Mr Z but he would not comply with their instructions. Pepper spray could have potentially affected other officers, or not worked at all as they were in a large, open area and Mr Z was moving quickly. Pepper spray would also only work at close range and officers did not want to get too near to Mr Z while he still held the knife. If the spray did not work on Mr Z for any reason, it would leave them in an extremely vulnerable position.
55. Tasers are a less than lethal option and can be deployed from an optimal distance of 4.5 metres and up to approximately 7.6 metres. This option allowed officers to maintain some distance from Mr Z. It was hoped that once the Taser took effect, officers would be able physically to overcome Mr Z's resistance and arrest him.
56. However, Officers A and B's use of Tasers had limited, if any, effect on Mr Z until the fourth Taser discharge. Because Mr Z continued to advance on Officer C, and with Officer C remaining as the lethal tactical option (with his rifle), the other officers attempted to use increasing levels of less than lethal force to stop Mr Z.
57. Officer E fired a sponge round at Mr Z almost simultaneously with Officer A's fourth Taser, and it was this combination of force that was finally successful in halting Mr Z's advance on Officer C.
58. Although temporarily paused, Officer D noted that Mr Z had only gone down to his knees and was still holding the knife and thrashing about. He believed Mr Z was not adequately incapacitated and so remained a threat to Officer C and other officers. Officer D therefore deployed the Police dog onto Mr Z's right leg to assist with pulling Mr Z down to the ground so that his advance on Officer C could be halted.
59. Officer C says that Mr Z had ignored his calls to drop his weapon and put his hands in the air. He was assaultive, dangerous and unpredictable, and needed to be restrained.
60. Although Officer C was armed with a rifle, he tried to avoid shooting at Mr Z during this incident. Instead, he retreated as much as possible and called out to the other officers to use their lower-level force options to try to stop Mr Z.
61. However, even once Mr Z was somewhat incapacitated by the fourth Taser cartridge and sponge round, Mr Z would not release the knife and continued to struggle with both Officers A and C, attempting to stab at Officer A who was on his left.
62. Officer C says he then struck Mr Z in the face in order to defend himself and Officer A by forcing Mr Z to drop the knife and protect his face. He hoped it would also distract Mr Z long enough for the officers to assist in getting him under control so that he could be handcuffed and placed under arrest.

63. Officer C's actions were successful. Mr Z was distracted and he dropped the knife, enabling Officer A to kick it away from Mr Z's hand and allowing the officers to gain control of Mr Z.
64. The situation was fast-moving and dangerous and the Authority accepts that the officers could not delay taking action. Mr Z's continued aggression posed a direct and imminent threat to Officer C and the other officers and Mr Z needed to be brought under control as soon as possible.
65. The Authority finds that the officers' uses of force to defend themselves and/or Officer C were reasonable and proportionate in the circumstances and therefore justified under section 48 of the Crimes Act 1961.

#### **Did the dog bite cause the fracture to Mr Z's leg?**

66. Based on approximate timing provided above in paragraph 38, the dog was potentially attached to Mr Z's leg for up to 30 seconds before Mr Z was brought under control. Although we have found the use of that force reasonable in the circumstances, Mr Z nonetheless incurred a significant dog bite to the back of the knee/upper calf area of his right leg.
67. In addition to the dog bite, as the officers turned Mr Z over and sat him up, they noticed that Mr Z had sustained a compound fracture to his lower right leg. Both bones in his lower right leg were broken and one bone was sticking through the skin on his inner ankle.
68. The injuries to Mr Z's leg were substantial and later required surgery and skin grafts to repair.
69. Officer C and another officer immediately administered first aid to Mr Z, including providing him with pethidine (a painkiller) and some water, and assisted with supporting Mr Z's leg until an ambulance arrived.
70. Mr Z believed that the Police dog bite was the direct cause of the fracture to his leg. Because it was unclear how and when the compound fracture had occurred, the Authority sought a clinical review of Mr Z's injuries.
71. That clinical review noted the following:
  - The dog bite in this case is above the fracture site.
  - There was a spiral fracture to both the tibia and fibula bones in Mr Z's lower right leg.
  - Bone fractures caused by dog bites can occur, but they do not occur in a spiral pattern.
  - These types of leg fractures are most commonly caused by the leg twisting with full weight bearing on the foot at the time.
  - The Taser footage shows Mr Z running on uneven ground while looking around and trying to evade capture. The footage also shows no injuries to his legs at that time.



- A dog biting the leg of a running person could cause that person to twist on a loaded foot and then sustain the fractures. A twisting load whilst running is the most likely cause of Mr Z's fractures.
- The application of a Taser or a Police dog bite could have contributed to the occurrence of the injury but did not directly cause the injury.

72. The clinical advisor also notes that, with both the leg bones fractured in this way, there is no structural integrity to the lower leg, which would make it impossible to run on it. He believes that Mr Z has attempted to continue to run on the leg after it has been fractured, and this is the reason the broken tibia has been driven down and through the skin near the ankle.

73. This advice, together with the Taser footage provided, shows that Mr Z likely sustained the fractures to his leg while running from Police in an attempt to evade arrest. It also shows that the injury was not directly caused by either the Police dog bite or by officers effecting his arrest.

#### FINDINGS ON ISSUE

The officers were justified in using force against Mr Z in defence of themselves and each other.

Mr Z had not already surrendered to officers when the Police dog was used on him

The dog bite did not directly cause the fracture to Mr Z's leg.



**Judge Kenneth Johnston KC**

Chair  
Independent Police Conduct Authority

8 June 2023

**IPCA: 22-10447**

## Appendix – Laws and Policies

### LAW

---

#### Use of force in self-defence or defence of another

74. Section 48 of the Crimes Act 1961 says:

***“Self-defence and defence of another***

*(1) Everyone is justified in using, in the defence of himself or herself or another, such force as, in the circumstances as he believes them to be, it is reasonable to use.”*

### POLICE POLICIES

---

#### Use of force

75. The Police’s ‘Use of Force’ policy provides guidance to Police officers about the use of force. The policy sets out the options available to Police officers when responding to a situation. Police officers have a range of tactical options available to them to help de-escalate a situation, restrain a person, effect an arrest, or otherwise carry out lawful duties. These include communication, mechanical restraints, empty hand techniques (such as physical restraint holds and arm strikes), OC spray (pepper spray), batons, Police dogs, tasers and firearms.
76. Police policy provides a Tactical Options Framework (TOF) for officers to assess, reassess, manage and respond to use of force situations, ensuring the response (use of force) is necessary and proportionate given the level of threat and risk to themselves and the public. Police refer to this assessment as the TENR (Threat, Exposure, Necessity and Response).
77. Police officers must also constantly assess an incident based on information they know about the situation and the behaviour of the people involved; and the potential for de-escalation or escalation. The officer must choose the most reasonable option (use of force), given all the circumstances known to them at the time. This may include information on: the incident type, location and time; the officer and subject’s abilities; emotional state, the influence of drugs and alcohol, and the presence or proximity of weapons; similar previous experiences; and environmental conditions. Police refer to this assessment as an officer’s Perceived Cumulative Assessment (PCA).
78. A key part of an officer’s decision to decide when, how, and at what level to use force depends on the actions of, or potential actions of, the people involved, and depends on whether they are; cooperative; passively resisting (refuses verbally or with physical inactivity); actively resisting (pulls, pushes or runs away); assaultive (showing an intent to cause harm, expressed verbally or through body language or physical action); or presenting a threat of grievous bodily harm or death to any person. Ultimately, the legal authority to use force is derived from the law and not from Police policy.

79. The policy states any force must be considered, timely, proportionate and appropriate given the circumstances known at the time. Victim, public, and Police safety always take precedence, and every effort must be taken to minimise harm and maximise safety.

### Use of firearms

80. Police policy instructs officers to always be aware of their personal responsibilities in the use of firearms, reminds them of the relevant sections of the Crimes Act, and sets out the circumstances in which the use of lethal force is justified. It provides for the use of firearms by Police officers to defend themselves or others if they fear death or grievous bodily harm, and if they cannot reasonably protect themselves or in a less violent manner. An offender is not to be shot until all the following conditions have been satisfied:
- they have first been asked to surrender (unless it is impractical and unsafe to ask them);
  - it is clear they cannot be disarmed or arrested without first being shot; and
  - further delay in apprehending the offender would be dangerous or impractical.

### Use of Tasers

81. Police policy states that a Taser may only be used to arrest an offender if the officer believes the offender poses a risk of physical injury and the arrest cannot be effected less forcefully. A Taser must only be used on a person who is assaultive and cannot be used on a person who uses passive resistance in relation to Police.
82. To encourage de-escalation and to warn others nearby, officers must give a verbal warning in conjunction with the use of a Taser, unless it is impractical or unsafe to do so.

### Use of force with Police dogs

83. Dog handlers are personally responsible for force used by the dog. The law sees little difference between dogs, when used as a means of force, and other methods and implement used by Police, such as firearms, Taser and batons. Dog handlers must believe the use of force is justified, and that the forced used is as minimal as possible in the circumstances.
84. A Police dog should only be used if the offender cannot be apprehended by other means. Dog handlers must consider all tactical options when considering the use of force. Just because the handler has a Police dog with them, does not mean they should use the dog as a means of force instead of a more appropriate option. According to the Tactical Options Framework, Police dogs can be used if the suspect is considered Assaultive.
85. Dog handlers must usually issue a warning before instructing a dog to bite a person, however, policy notes that a warning may not be given in AOS or other critical situations *“if it is not practicable or would be dangerous to do so.”*

86. Police dog handlers must always have control of their dog during deployment. Control means that the dog is under immediate physical or voice control, and that the dog responds to that control. The extent of the force used by the dog must be kept to the minimum possible in the circumstances.
87. Policy dictates that all people bitten by Police dogs are to receive appropriate medical treatment.

# About the Authority

## WHO IS THE INDEPENDENT POLICE CONDUCT AUTHORITY?

---

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

We are not part of the Police – the law requires us to be fully independent. The Authority is overseen by a Board, which is chaired by Judge Kenneth Johnston KC.

Being independent means that the Authority makes its own findings based on the facts and the law. We do not answer to the Police, the Government or anyone else over those findings. In this way, our independence is similar to that of a Court.

The Authority employs highly experienced staff who have worked in a range of law enforcement and related roles in New Zealand and overseas.

## WHAT ARE THE AUTHORITY'S FUNCTIONS?

---

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

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

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

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

## THIS REPORT

---

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

---



Mana Whanonga Pirihimana Motuhake

PO Box 25221, Wellington 6140  
Freephone 0800 503 728  
[www.ipca.govt.nz](http://www.ipca.govt.nz)

---