
Poor restraint technique causes broken arm

1. In central Hamilton in the early hours of 9 July 2022, Police were called to break up a group of 20 to 30 youths, some of whom were fighting. A number of youths were arrested.
2. Ms X shouted at the Police, and she was arrested by Officer A.
3. During the arrest process, Officer A applied a restraint hold, which broke Ms X's arm. Officer A immediately noticed and provided medical aid.
4. Ms X complained to the Authority that Officer A used excessive force when arresting her.

The Authority's Finding

Issue: Did Officer A use excessive force when he restrained Ms X?

The force used by Officer A to restrain Ms X was reasonable. However, he incorrectly applied a technique which resulted in her injury.

Analysis of the Issue

ISSUE: DID OFFICER A USE EXCESSIVE FORCE WHEN HE RESTRAINED MS X?

5. In the early hours of 9 July 2022, Hamilton Police were called to a group of 20 to 30 youths that had gathered outside a take-away food shop, some of whom were fighting. The Hamilton City Police Support Unit (PSU)¹ attended.

¹ The Police Support Unit is a district resource deployed in a wide range of prevention activities including alcohol harm reduction tactics.

What does Ms X say happened?

6. Ms X says that one of her friends who had been attacked was arrested by Police. Ms X says she approached Police to challenge them as to why they were arresting her friend, and she accepts that she used some abusive language towards officers. She was told she was under arrest.

7. Ms X describes when her arm was broken:

“And then out of nowhere the Police officer kind of just grabbed my arm. I don’t know how he snapped my arm and my elbow.”

8. Ms X says she kicked out at Officer A after he broke her arm. She required a number of surgical operations to repair the injuries.

What does Officer A say happened?

9. Officer A says that when Police arrived a number of youths were fighting. Officer A arrested one person and was taking him back to the Police van when he was followed by a young woman (Ms X). She was shouting and swearing at officers.

10. Officer A says that he was directed by his sergeant to arrest Ms X. He took hold of her arm and a colleague held Ms X’s other arm, to walk her to the Police van.

11. Officer A was initially holding Ms X’s arm in what he described as an “escort hold”. This is a trained restraint hold, used to guide or move a subject in the desired direction. This technique provides minimal control over the subject, but it sets the officer into a position where they can transition into a more secure hold if the need arises.

12. The hold is applied by standing closely behind and to the side of the subject. The officer grips the subject’s hand with one hand and just above the elbow joint with the other. The officer applies pressure, forcing the elbow into a locked and slightly hyper-extended position. The officer can then escort the subject while maintaining control of them.

13. Officer A says that while Ms X was in the escort hold, she started to struggle and kick out, and he was concerned he would be injured. He says a colleague was recently injured when kicked by an offender in a similar situation.

14. Officer A changed his grip to move her arm behind her back, in what he called a “rear wrist lock”. This hold required Officer A to bend Ms X’s elbow to move her arm to behind her back.

15. As Officer A changed grips, he stepped away from Ms X to avoid being kicked and heard a “pop” noise. Ms X’s elbow over-extended causing an injury. Officer A immediately recognised Ms X was injured, released her and sat her down.

Did Officer A use excessive force?

16. Officer A relied on section 39 of the Crimes Act 1961, which allows Police to use “such force as may be necessary” to overcome any force used in resisting an arrest or the execution of any

sentence, warrant, or process. “Necessary” force in this context is generally accepted as meaning “reasonable” and “proportionate to the degree of force being used to resist”.

17. Under section 39, the Authority must determine:

- whether the officer believed on reasonable grounds that the person was using force to resist arrest; and
- if so, whether the degree of force used to overcome that resistance was proportionate and reasonable in the circumstances as the officer reasonably believed them to be (that is, whether the officer could reasonably have overcome the resistance and effected the arrest by using less force or some other method short of force such as tactical communications).

Did Officer A believe on reasonable grounds that Ms X was using force to resist arrest?

18. Officer A says that Ms X was verbally abusive and struggling against restraint. Ms X accepts that she was verbally abusive, and because she was unhappy she had been arrested, we conclude that it is likely that she was struggling to some extent. We therefore accept that Officer A had a reasonable belief that Ms X was using force to resist arrest.

Was Officer A’s use of force reasonable and proportionate?

19. We accept that some force was necessary to restrain Ms X. However, Ms X is short and very slight in build, and Officer A should have been able to restrain Ms X safely on his own. In this case, Officer A also had the assistance of another officer who was holding Ms X’s other arm, which should have made the restraint even safer.

20. The injury to Ms X happened as Officer A changed grips from “escort hold” to a “rear wrist lock”. Officer A explains he changed grip because he was concerned he would be kicked and injured by Ms X. We accept that his decision to change grips was reasonable.

21. We find that the injury was caused not by excessive force, but by poor technique as Officer A transitioned from an “escort hold” to a “rear wrist lock”.

FINDING ON ISSUE

The force used by Officer A to restrain Ms X was reasonable. However, he incorrectly applied a technique which resulted in her injury.

Subsequent Police Action

22. The supervisor of this workgroup has advised that, since this incident, the Hamilton City PSU has reviewed its practice in relation to the use of restraint holds.

A handwritten signature in blue ink, appearing to read "Kenneth Johnston", is centered on the page. The signature is written in a cursive style.

Judge Kenneth Johnston KC

Chair
Independent Police Conduct Authority

20 June 2023

IPCA: 22-14281

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).

The Authority's investigation 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.



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