

Issue 3: Was Officer B justified in punching and kicking Mr Z?

Officer B was justified in kicking Mr Z's arms and punching him in the head to defend his Police dog.

Issue 4: Did Police provide Mr Z with proper care in custody?

There were deficiencies in the care provided to Mr Z in custody.

Issue 5: Did Police behave unprofessionally towards Mr Z and Mr X?

Officer D used unprofessional language in addressing Mr X and behaved unprofessionally towards him after the incident.

We are unable to determine whether any officer used unprofessional language in addressing Mr Z.

Officer B did not assault Mr Z at the station nor behave unprofessionally towards him there. We are unable to determine whether any other officer did so.

Background

6. At about 6pm, Mr Z drove onto a vacant lot next to the intersection of Ruahine Street and Tremaine Avenue, partially blocking the footpath. He had run out of petrol. He was drinking alcohol and began to pace around, yelling and gesticulating in the direction of a house across the intersection and at passing cars. There were no other pedestrians nearby.
7. From about 6.10pm, passing witnesses called 111 and described Mr Z stumbling and yelling near the intersection, drinking alcohol and damaging his car.
8. Police Communications requested that Officer A and his colleague Officer C (both constables) attend a car parked at the intersection. More information was then broadcast over Police radio, that a man had got out of the car *"with a box of alcohol"*, was *"ripping off the wing mirror"*, *"yelling at lots of people"* leaning out of the car window and throwing cans.¹
9. Officer B, a dog handler, recognised the car's registration details and identified the man as Mr Z over Police radio. Officer B had been looking for Mr Z to speak to him about an incident at Mr Z's home 30 minutes before during which another occupant, Ms Y, had reported Mr Z threatened to kill her. Before he arrived at the intersection, Officer B broadcast a message over Police radio: *"just FYI for the other units, he may be carrying knives or something, that's what [Ms Y] was saying earlier."*

¹ The information about throwing cans was incorrect as passing witnesses had reported Mr Z was leaning out of a car window and there were cans on the car roof.

10. Officers A and B each decided to arrest Mr Z for behaving in an offensive or disorderly manner in a public place.² We accept that the information broadcast over Police radio gave the officers good cause to suspect Mr Z of offensive or disorderly behaviour.

ISSUE 1: WAS OFFICER A JUSTIFIED IN USING FORCE AGAINST MR Z?

What happened?

11. At about 6.25pm, Officer B arrived at the intersection, followed seconds later by Officers A and C.
12. When Officers A and C arrived, Mr Z started to walk towards Officer C's side of the car *"very aggressively"*. Officer A told us Mr Z was *"yelling and removed his jacket gesticulating towards police in an aggressive and challenging manner. His body language and manner of behaviour indicated he wanted to fight."*
13. Officer A told us there was not enough time for Officer C to react to an attack if she opened the car door and he feared Mr Z might have a knife, so he advised her to stay in the car at that time; she did. Officer A put on leather gloves to protect his hands and got out of the car.
14. At about this time, Officer B got out of his car and Mr Z turned and approached him. Officer B told Mr Z he was under arrest and he yelled and gesticulated angrily, asking *"what am I under arrest for? What've I done?"* Mr Z did not have anything in his hands. Officer B told Mr Z he was under arrest for disorder. Mr Z swore and yelled again *"what've I done?"*
15. Officer B told us he always looks to de-escalate a situation, but Mr Z was moving quickly towards him in an aggressive manner and there was no time to give him any further explanation. He told us when someone is approaching you for a fight *"you can't de-escalate any further with communication, you have to start making decisions about tactical options and what you can do to keep yourself safe."*
16. The officer returned to his car, took out his Police dog, and commanded the dog to bark at Mr Z to deter him from coming closer. Mr Z kept walking towards him and Officer B considered whether to use pepper spray on Mr Z.
17. Officer A walked up to Mr Z's left side and put his hand on Mr Z and told him to put his hands behind his back. Mr Z pushed or flicked Officer A's arm away by extending his own left arm. Officer A recalls Mr Z turned to face him.
18. Officer A believed Mr Z was going to punch him or attack him with *"anything he might have on him"* and reacted by punching Mr Z in a pre-emptive strike to the face. Officer A then tried to grab Mr Z's arm to restrain him, but Mr Z continued to resist arrest.
19. Officer A said *"[t]he struggle was fast moving and at some point, we ended up on the ground"* where they wrestled. Mr Z broke out of Officer A's grip. He pushed and flailed his arms at Officer

² An offence under section 4(1)(a) of the Summary Offences Act 1981.

- A. We have established that Officer A struck Mr Z in the head again about this time, because Officer A recorded it in his notebook and Mr Z recalls being struck in the head many times during their struggle on the ground.
20. We have not been able to determine what prompted that strike, nor how Officer A struck Mr Z – whether this was with an open fist, closed fist or some other part of his body. Nor are we able to determine how forceful that strike was. Officer A did not make any other record of that strike and, in interview, could not recall how he struck Mr Z: *“I can’t describe it. It was all just a big scuffle on the ground.”* Because we cannot establish those matters, we cannot assess the legal justification for that strike. However, on the available evidence we are satisfied any strike by Officer A was in the context of his attempts to restrain Mr Z for the purpose of arresting him.
 21. Towards the end of the struggle, Officer A said Mr Z pushed him off and tried to get back to his feet. The officer was concerned Mr Z may *“grab any weapons he may have had on him”*, so he *“jumped away.”* It was at this point that Officer B and his dog became involved (see Issue 2).
 22. During the struggle, Officer C got out of the car, but she did not participate in the arrest.
 23. Mr Z sustained bruises and abrasions to his head, described by the Police doctor as *“minor”*. Over the following days, Mr Z visited his GP and the Palmerston North hospital, reporting pain on the left side of his face and tenderness on the cheek bone, but scans were not taken until early August. Those scans revealed the cheek bone was fractured.
 24. The Police doctor later acknowledged that such a fracture might have gone undetected but added that, for such a severe injury, *“he would expect severe swelling or bruising to be visible, even after an hour and it would be very obvious to him.”* We have not been able to determine how Mr Z sustained the injury, although it is likely to have happened during the arrest. Mr Z later required surgery.

Was Officer A legally justified in using force against Mr Z to arrest him under section 39?

25. Section 39 empowers 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”*.
26. Under section 39, we 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 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 communication).

Did Officer A believe on reasonable grounds that Mr Z was using force to resist arrest?

27. Mr Z had pushed Officer A's arm away after being told he was under arrest for behaving in a disorderly manner. He also continued to push Officer A away when they were struggling on the ground. We are satisfied that Officer A believed that Mr Z was using force to resist arrest and that his belief was based on reasonable grounds.

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

28. Officer A's understanding of the circumstances was:
- he believed the way Mr Z removed his coat, and Mr Z's body language, indicated Mr Z wanted to fight Police;
 - he saw Mr Z walking towards Officer B, while yelling and gesticulating angrily;
 - he feared Mr Z might have a knife and might assault Officer B;
 - after Mr Z pushed him away, Officer A feared Mr Z might assault him because *"he looked as if he was going to fight"*;
 - he believed Mr Z was intoxicated and might have taken drugs;
 - he believed Mr Z could not be reasoned with or calmed by talking;
 - Mr Z was agitated and had been damaging his car;
 - Mr Z had a history of assaulting Police and carrying weapons; and
 - Mr Z had threatened to kill Ms Y in an incident 30 minutes before.
29. Police policy encourages officers to use tactical communication. Officer A says he planned to:
- park a safe distance away from Mr Z;
 - attempt to de-escalate the situation by communicating with him; and
 - draw his Taser.
30. However, Mr Z moved too close and Officer A says that as a result these tactical options were no longer available. In his TOR he said he considered using his Taser and his pepper spray but did not because Mr Z was too close to Officer B, and using those tactical options would have put Officer B at risk. He also wanted his hands free if Mr Z attacked Officer B, so he could restrain Mr Z and handcuff him.
31. From Mr Z's aggressive demeanour Officer A believed *"there was no way [Mr Z] was going to de-escalate"*. Officer A says when Mr Z concentrated on Officer B *"with his arm out"* he saw an opportunity to restrain and handcuff Mr Z.
32. Considering the circumstances above (see paragraph 28), we have concluded that it was reasonable for Officer A to believe Mr Z would fight him after Mr Z pushed or flicked his arm

away and turned to face the officer. Although Mr Z's push could be considered a low level of resistance, taken in the context of everything the officer knew about Mr Z and how he was behaving, we would not expect the officer to wait to be assaulted further before making a pre-emptive move to take control of the situation.

33. Officer A recalls being off balance when he punched Mr Z, but punched as hard as he could in those circumstances. Mr Z did not threaten the officers with a weapon, and Mr Z is smaller in stature than Officers A and B. However, the officers were confronted with Mr Z who was "heightened", "aggressive" and "challenging". From the information they had about him the officers believed he could not be reasoned with and was likely to be carrying a weapon. In these circumstances we consider Officer A's punch to Mr Z's head was proportionate and reasonable.
34. We also consider Officer A trying to control Mr Z on the ground was a proportionate and reasonable response to Mr Z's resistance, which then consisted of pushing Officer A and flailing his arms around. As noted above, we believe Officer A struck Mr Z in the head during this time but are unable to assess whether this was justified due to a lack of evidence.
35. Although we find the use of force by Officer A was reasonable when Mr Z resisted arrest, Police policy on 'Use of force' states that "*tactical communication should be attempted in every incident where Police action is necessary in response to uncooperative subjects, including those that may require force to be used*". In this case, we are not satisfied that Officers A and B complied with this policy, because they did not attempt first to communicate with Mr Z to de-escalate the situation before they proceeded to arrest him.
36. When Officer B first got out of his car, he immediately told Mr Z that he was under arrest (see paragraph 14). While he told us that his first choice is to find ways to de-escalate a situation, his initial actions in this case, given Mr Z's agitated state, were highly likely to (and did) have precisely the opposite effect.
37. Equally, when Officer A first got out of the driver's seat of his car, Mr Z was on the passenger side of the car, which is why he had told Officer C to stay in the car. Officer A therefore had the opportunity to talk to him. Instead, he simply moved immediately to restrain him by force (see paragraph 17).
38. In our judgment, the use of force by the officers was more likely to be required because of their failure to attempt to communicate with Mr Z.

FINDINGS ON ISSUE 1

Officers A and B should have attempted to talk to Mr Z to de-escalate the situation, before telling him he was under arrest.

Officer A was justified in punching Mr Z in the head and wrestling with him on the ground.

ISSUE 2: WAS OFFICER B JUSTIFIED IN USING THE POLICE DOG AGAINST MR Z?

What happened?

39. After Officer A had struggled with Mr Z on the ground and “*jumped away*”, Officer B said Mr Z was angry and looked like he wanted to continue fighting. At this point, Officer B released his dog to bite Mr Z.
40. Mr Z then gouged at the dog’s eyes and Officer B used force to prevent this (see Issue 3).
41. Officer B and Officer A then restrained Mr Z by placing him face down on the ground and handcuffed him. Officer A held one of Mr Z’s arms, but the other arm remained tucked under Mr Z. Officer B then saw the dog was still biting Mr Z and called it off. Mr Z sustained dog bite wounds to his left calf and dog scratch wounds to his thigh that required cleaning and dressing.

Was Officer B legally justified in using force against Mr Z to arrest him under section 39?

42. Paragraphs 25 and 26 outline the requirements of section 39.

Did Officer B believe on reasonable grounds that Mr Z was using force to resist arrest?

43. Before Officer B released his dog, he saw Mr Z resisting arrest by pushing Officer A’s arm away and flailing his arms around and then wrestling with Officer A on the ground. Officer B clearly knew Mr Z was using force to resist arrest.
44. In our assessment, it was reasonable for Officer B to believe that Mr Z would continue to resist arrest.

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

45. Officer B’s understanding of the circumstances was:
 - he feared for Officer A’s safety as he and Mr Z struggled and wrestled in close quarters on the ground;
 - he continued to fear Mr Z might have a knife and might assault him;
 - he believed Mr Z was intoxicated and under the influence of a controlled drug;
 - he believed Mr Z would not be calmed by talking;
 - Mr Z was agitated and had damaged his car;
 - Mr Z had a history of assaulting Police and carrying weapons; and
 - Mr Z had threatened to kill Ms Y in an incident 30 minutes before.
46. Events developed quickly and Officer A’s close proximity to Mr Z during the struggle on the ground prevented Officer B from using pepper spray on Mr Z.

47. Ms Y had told Officer B that Mr Z might be violent towards Police and had “left... in a drunk drugged up state” from the previous incident. Also believing Mr Z might have a knife, Officer B used the Police dog to effect the arrest. He did this at the earliest opportunity when Officer A “jumped away” from Mr Z.
48. Police policy³ requires dog handlers to give a warning before releasing the dog “unless it is unsafe or impracticable to do so”. Officer B did not give a warning, so Mr Z was not given time to comply. However, as stated above, events evolved rapidly, and Officer B was required to act with urgency. We consider Officer B’s use of the dog was reasonable and proportionate in the circumstances.

FINDING ON ISSUE 2

Officer B was justified in releasing his dog to bite Mr Z.

ISSUE 3: WAS OFFICER B JUSTIFIED IN PUNCHING AND KICKING MR Z?

What happened?

49. While Officer B’s dog was biting Mr Z’s left calf, Mr Z sat up and took hold of the dog’s head, trying to remove the dog from his leg. Officer B saw Mr Z gouging his dog’s eyes and heard the dog cry in pain. So, he kicked Mr Z’s arms, trying unsuccessfully to break Mr Z’s grip on the dog.
50. Officer B then punched Mr Z in the head. Mr Z released his grip on the dog and fell back.

What are the possible justifications for Officer B punching and kicking Mr Z in these circumstances?

51. Section 41 of the Crimes Act 1961 provides that any person is justified in using “such force as may be reasonably necessary” to prevent the commission of an offence likely to cause immediate and serious injury to the person or their property, or to prevent any act being done which they reasonably believe would if committed amount to such an offence.⁴
52. “Necessary”, “reasonable” and “reasonably necessary” are generally accepted as meaning proportionate to the reason why the force is being used.
53. When the Police dog bit Mr Z he responded by gouging the dog’s eyes. This caused the dog pain and Officer B kicked Mr Z’s arms to try and break his hold. When this was not successful, he punched Mr Z in the head, which prevented injury to the dog.
54. We consider Officer B’s use of force was for the purpose of preventing an offence against property, as it is an offence to kill or injure a Police dog⁵ and the dog is considered Police property. We also agree the eye gouging was likely to cause immediate and serious injury to the dog.

³ ‘Use of force’ and ‘Police dogs’ policy.

⁴ This section also relates to preventing the commission of suicide.

⁵ Section 53 of the Policing Act 2008.

55. In this circumstance, Officer B responded as quickly as he could to avoid injury to his dog. When the lesser use of force did not stop Mr Z, the officer escalated to a punch, which constituted a measured and proportionate use of force. We therefore conclude that the force was reasonable and justified under section 41.

FINDING ON ISSUE 3

Officer B was justified in kicking Mr Z's arms and punching him in the head to defend his Police dog.

ISSUE 4: DID POLICE PROVIDE MR Z WITH PROPER CARE IN CUSTODY?

Did Officer A provide a proper handover to custody staff?

56. By 6.30pm, Mr Z was in Police custody. Under Police policy, the arresting officer, Officer A, was responsible for Mr Z's care until Mr Z was formally received into custody at 7pm.
57. After arriving at the Palmerston North Police Station, Officer A was required to tell custody staff what he knew about Mr Z's physical and mental health.
58. Officer A knew he had punched Mr Z in the head during the arrest. That information was relevant to any assessment of the care and monitoring Mr Z might need in custody.
59. Officer A did not inform custody staff that he had punched Mr Z in the head during the arrest. Custody staff could not then inform the Police doctor of that.
60. Also, as Officer B had punched and kicked Mr Z this information should have been passed on by Officers A and B to custody staff.

Did Mr Z receive timely and appropriate care for the dog bite wounds?

61. The Police doctor provided timely and appropriate medical care for the dog bite wounds.
62. The Police doctor assessed Mr Z at the Police station at about 7pm. The Police doctor cleaned and dressed the wounds, and Officer E took pictures of those injuries at Mr Z's request.
63. Mr Z was in pain from the dog bite wounds and blows to his head but was not provided with any pain relief medication until the following morning. Police should have provided Mr Z with pain relief earlier.

Was the Police doctor able to properly assess whether Mr Z had sustained a head injury?

64. Because officers did not tell the Police doctor that Mr Z had been punched in the head, the Police doctor did not have all the information he required to properly assess the nature or extent of Mr Z's head injuries.
65. The Police doctor observed that Mr Z had blood on his head from some cuts and abrasions but believed those were sustained when Mr Z was restrained on a footpath.

66. The Police doctor was not able to closely examine Mr Z. He described Mr Z as upset and incoherent, and that Mr Z told him he had been “*beaten up*” by an officer. Had he been informed that Mr Z had been punched in the head, he could have assessed whether Mr Z might have concussion⁶ or broken bones in his face or require further assessment and treatment in hospital.

Were there any other issues with the care provided to Mr Z in custody?

67. Upon his arrest Mr Z had the right to speak with a lawyer without unreasonable delay. Mr Z asked to speak with a lawyer that evening. The two custody staff say Mr Z didn’t ask to speak to a lawyer or cannot recall whether he asked. There is a conflict of accounts that we cannot resolve.
68. Custody staff removed Mr Z’s clothes and placed him in a tear-resistant gown. Mr Z said this was humiliating. In our view, placing Mr Z in a tear-resistant gown was reasonable and permitted by Police policy because the custody staff feared Mr Z might harm himself. However, that step should have been recorded, and was not.
69. About half an hour after his arrest, Mr Z was formally received into custody and assessed. He was found to be in need of care and constant monitoring. The Police doctor then downgraded Mr Z’s monitoring needs to frequent monitoring (meaning custody staff would check on Mr Z five times an hour, at irregular intervals). However, the Police doctor had an incomplete understanding of Mr Z’s health because he was not aware of the blows to Mr Z’s head.
70. Mr Z says he was not given a blanket. We have not been able to determine whether Mr Z was given a blanket or not.
71. Mr Z says he was not given food until later that evening. Police records suggest Mr Z may have been offered a meal about 7.45pm, but we have been unable to determine whether that is correct. Mr Z was offered a meal after custody staff changed shifts, about 11.15pm. He was also given a meal at 7.45am.

FINDING ON ISSUE 4

There were deficiencies in the care Police provided to Mr Z in custody.

ISSUE 5: DID POLICE BEHAVE UNPROFESSIONALLY TOWARDS MR Z AND MR X?

Did any officer direct unprofessional comments to Mr Z after the arrest?

72. Mr Z says, during the drive to the Police station, the dog handler made offensive comments towards him: “*Look at your gay hair.*” However, Officer B did not accompany Mr Z. The officers who did accompany Mr Z deny making or hearing unprofessional comments directed to Mr Z.
73. We have been unable to resolve whether any officer directed unprofessional comments to Mr Z after the arrest.

⁶ An injury to the brain.

Did any officer assault Mr Z after arriving at the Police station or behave in an unprofessional way?

74. Mr Z says that, after arriving at Palmerston North Police station, the officers were laughing about what happened and the dog handler kept plucking at his shirt and pushing him around. As already noted, Officer B did not accompany Mr Z. The officers who did accompany Mr Z, and the custody staff, either denied or did not recall this. Police did not retain CCTV footage of Mr Z's time in custody.
75. We have concluded on the evidence that Officer B did not assault Mr Z at the station nor behave unprofessionally towards him there. We are unable to determine whether any other officer did so.

Did any officer direct unprofessional language or behaviour towards Mr X?

76. At the time Officers A and B were restraining and handcuffing Mr Z, Officers D and E arrived. Officer E helped Officer A to take Mr Z's other arm and handcuff him. Mr X, who was in a car in nearby traffic and had seen part of the arrest, yelled angrily at Officer D, who was standing nearby. Officer D told Mr X to "piss off."
77. Mr X called 111 and made a complaint about the arrest. He later complained about the follow up actions taken by Police, that an officer was rude to him and told him that "it didn't happen" or something along those lines.
78. An officer at the scene of the arrest, Officer D, admitted addressing a civilian in a passing car and we are satisfied that this was Mr X. Officer D's evidence was that:

"I can't exactly recall the exact words but it was along the lines of "Look, if you didn't see what happened just piss off". Like he was just, those were along the words of just move along. But it wasn't exactly in the polite manner."
79. That in our assessment constitutes the use of unprofessional language. We have also concluded that Officer D dealt unprofessionally with Mr X when making follow up calls about the arrest. Officer D called Mr X after the arrest said something like "it [the incident] didn't happen." When Mr X became angry, Officer D hung up on him.
80. Upon receiving information that Police may have used excess force during the arrest and knowing that he had not himself seen the entirety of the incident, Officer D ought to have made open and impartial enquiries and recorded the witness's account. He did not.
81. These matters are significant because they bear upon the community's trust and confidence in Police.

FINDINGS ON ISSUE 5

Officer D used unprofessional language in addressing Mr X and behaved unprofessionally towards him after the incident.

We are unable to determine whether any officer used unprofessional language in addressing Mr Z.

Officer B did not assault Mr Z at the station nor behave unprofessionally towards him there. We are unable to determine whether any other officer did so.

A handwritten signature in blue ink, appearing to read "Kenneth Johnston", is centered on the page.

Judge Kenneth Johnston KC

Chair
Independent Police Conduct Authority

17 August 2023

IPCA: 21-8188 and 21-8200

Appendix – Laws and Policies

LAW ON OFFENSIVE AND DISORDERLY BEHAVIOUR

82. Section 4(1)(a) of the Summary Offences Act states:

(1) Every person is liable to a fine not exceeding \$1,000 who,—

(a) in or within view of any public place, behaves in an offensive or disorderly manner

LAW AND POLICY ON USE OF FORCE

Law on use of force

83. Section 39 of the Crimes Act provides for law enforcement officers to use reasonable force in the execution of their duties such as arrests and the enforcement of warrants. Specifically, it provides that officers may use *“such force as may be necessary”* to overcome any force used in resisting the law enforcement process unless the process *“can be carried out by reasonable means in a less violent manner”*.

84. Section 41 of the Crimes Act provides that force may be used to prevent serious injury to the person or property of any one in certain circumstances. It states:

“Everyone is justified in using such force as may be reasonably necessary in order to prevent the commission of suicide, or the commission of an offence which would be likely to cause immediate and serious injury to the person or property of any one, or in order to prevent any act being done which he or she believes, on reasonable grounds, would, if committed, amount to suicide or to any such offence.”

Police policy on use of force

85. The Police ‘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, batons, Police dogs, Tasers and firearms.

86. Police policy provides a Tactical Options Framework 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 as the TENR (Threat, Exposure, Necessity and Response) assessment.

87. Police officers must 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).

88. Wherever possible and appropriate, officers should use tactical communication throughout an incident, alone or with any other tactical options. Tactical communication is crucial to safely de-escalating an incident with uncooperative subjects. Tactical communication should be attempted in every incident where Police action is necessary in response to uncooperative subjects, including those that may require force to be used.
89. 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, legal authority to use force is derived from the law and not from Police policy.
90. The policy states that any force must be considered, timely, proportionate and appropriate given the circumstances known at the time. Victim, public and Police safety always takes precedence, and every effort must be taken to minimise harm and maximise safety.

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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