



**IPCA**

Independent Police  
Conduct Authority

Mana Whanonga Pirihiimana Motuhake

## Officer used justified force in Kaitaia during public disorder

1. On the evening of 8 October 2022, Officer A and two recently graduated officers went to the Awanui Hotel in Kaitaia after fights started breaking out in a crowd of about 80 people standing outside. As the officers tried to disperse the crowd, Officer A presented his Taser (but did not discharge it) and used pepper spray on a group of about five people who did not obey his instructions to leave.
2. The group moved away, but Mr Z came back towards Officer A yelling that the use of pepper spray was excessive and he *“can’t do that!”* Officer A sprayed Mr Z again. Police then arrested Mr Z and gave him a formal warning for disorderly behaviour.
3. Mr Z complained to us about how Police had treated him. Our investigation examined whether Officer A’s use of force was justified, whether Police offered Mr Z appropriate aftercare for the pepper spray, and whether Police had grounds to arrest Mr Z and give him a formal warning for disorderly behaviour. We also investigated information we received alleging that Officer A had instructed the two junior officers to change their job sheets because their description of events could *“get them into trouble”*.
4. Our investigator interviewed the complainant, six officers and the owner of the hotel. We also analysed footage of the incident from the camera attached to Officer A’s Taser.
5. We concluded that:
  - a) Officer A’s first use of pepper spray on the group was justified because he feared for his and the junior officers’ safety.
  - b) His second use of pepper spray on Mr Z was also justified because he believed Mr Z was angry, wanted to continue fighting, and might assault him.
  - c) Police gave Mr Z access to a hose to wash off the pepper spray when they arrived at the Police station. However, they should have offered Mr Z decontaminant treatment for the pepper spray more quickly, as required by Police policy.
  - d) Police had grounds to arrest Mr Z for breaching the peace. It is less clear whether Mr Z’s actions amounted to ‘disorderly behaviour likely to cause violence’ (for which Police gave him a warning), but we accept there is insufficient evidence to determine whether his behaviour reached that level.

- e) Officer A gave the junior officers advice about their job sheets because it was their first time completing them. There is no evidence to support an allegation that he made them change aspects to 'cover up' what had happened.
6. Mr Z also complained that he was left alone in the Police car for five to ten minutes after his arrest and that Officer A and other officers laughed at him during his time in custody. We found no evidence to support this complaint.
7. Officer A has since resigned from the New Zealand Police for reasons unrelated to this incident.
8. Police have recently distributed 'Lessons Learnt' guidance to Northland District officers to remind them that they must:
- not leave a person who has been pepper-sprayed unsupervised for any length of time; and
  - provide aftercare as soon as possible after securing the person (and if water is not immediately available then they should at least offer decontaminant treatment).



**Judge Kenneth Johnston KC**

Chair  
Independent Police Conduct Authority

6 June 2024

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