



the roof of the prison and used a metal bar to break out selected prisoners from their cells.<sup>3</sup> They also lit more fires and obstructed attempts by Corrections staff and FENZ to extinguish them.

6. Corrections notified Police that evening and three Police negotiators arrived at the prison to assist. Several Armed Offenders Squad (AOS) officers and a dog handler also attended. However, Corrections maintained control of the incident throughout and the Police officers who attended the prison that night and over the next five days acted in a supporting role. We were told Police would only have assumed control if there was an imminent risk of death or serious bodily injury, in accordance with the Memorandum of Understanding between Police and Corrections.
7. Waikato Police advised Counties Manukau and Bay of Plenty Districts of the riot in case extra staff were needed, as Police resources were also required for New Year policing operations.
8. The AOS officers who attended the prison remained under the command of the Acting Waikato District Commander, and any use of force by them required his express consent. Overnight on 29 December, they assisted with transferring prisoners who were not involved in the riot out of the Top Jail.
9. Police organised a small number of officers to support Corrections at the prison over the next few days. The initial strategy was to contain the rioting prisoners and wait while negotiators worked to obtain a surrender. During this time, Police helped to protect the kitchen facilities which serviced the whole prison. Meanwhile, the prisoners broke into other areas of the Top Jail and obtained food, radios, weapons, helmets, shields, and stab-resistant body armour.
10. On 31 December, a Police inspector joined the Emergency Operations Centre (EOC) based at the prison to support Corrections' response and lead the Police's overall involvement in the operation. All the Police staff we spoke to said the command structure was clear.
11. As part of the ongoing negotiations, the prisoners spoke with local Kuia and Kaumātua and a Te Pāti Māori co-leader who came to the prison to discuss their concerns. They were also given bottles of water. Although the prisoners had said they would come down from the roof after this, they refused. That afternoon, one of the prisoners surrendered after others assaulted and threatened to kill him if Corrections did not give them food and water.<sup>4</sup>
12. From 1 January 2021, Corrections' strategy began to focus more on developing plans to intervene and end the riot by force, as it had become clear that the prisoners were not adequately contained and had accessed some weapons and supplies that made them less inclined to surrender.
13. At times, prisoners threw items such as bricks and pieces of concrete off the roof at Corrections and Police staff. Tensions also rose between the prisoners, who began to fight among themselves. Ongoing fires made the Top Jail building increasingly dangerous for the prisoners and any Corrections or Police staff who needed to enter.

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<sup>3</sup> By the end of the first day, 17 prisoners were taking part in the riot.

<sup>4</sup> Corrections later provided more water, but not food.

14. Late that evening, most of the prisoners came down from the roof armed with weapons and advanced on Corrections and Police staff, aggressively challenging them to fight. An AOS officer fired two sponge rounds in response, hitting two prisoners before they retreated to the roof. Two other AOS officers presented their Tasers but did not fire. We are satisfied that the officers' use of force to defend themselves and others was necessary and reasonable in the circumstances, and was therefore justified under section 48 of the Crimes Act 1961.
15. The prisoners lit more fires and continued to throw objects down from the roof. At 6pm on 2 January, Corrections and Police approved an intervention plan which included using dozens of Corrections staff and a small number of AOS officers to restrict the area the prisoners had access to and force them to surrender.
16. At 7.15pm, Corrections and Police staff entered the Top Jail. The prisoners had set up barricades to block access to the second-floor Chapel and roof, where they were sheltering and storing supplies. As Corrections and Police tried to remove the barricades, the prisoners lit fires which quickly spread through the Chapel building (and subsequently destroyed the shelter and supplies the prisoners had been using).
17. Corrections and Police staff decided to withdraw at about 7.33pm due to the danger the fires posed. As they left the building, prisoners threw heavy objects down at them from the roof. Three AOS officers fired a total of seven sponge rounds to force the prisoners back from the edge of the roof and protect the people exiting the building. A few hours later, prisoners were again throwing objects at Corrections staff and an AOS officer fired three sponge rounds to force the prisoners back from the edge of the roof. One of these rounds struck a prisoner. An AOS officer also re-directed a hose onto the roof to help drive the prisoners back. We have concluded that the officers' use of force to defend Corrections and Police staff from the prisoners throwing heavy objects at them was necessary and justified under section 48 of the Crimes Act.
18. By the morning of 3 January, the fires had left the prisoners confined to a small area on the roof. They surrendered at about noon, ending the riot. Corrections, Police, FENZ and St John Ambulance all took part in a debrief that afternoon.
19. We are satisfied that Police have reviewed their part of the response, and identified the obstacles they faced and what could be improved for any future incidents of this nature.



**Judge Kenneth Johnston KC**

Chair  
Independent Police Conduct Authority

**IPCA:** 21-6166

25 June 2024

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