

1. On 4 November 2024, an officer was engaged in the process of removing an aggressive, intoxicated man from the Auckland City Mission located on Boston Road in Grafton. The man did not comply with requests to vacate the premises, prompting the officer to place a hand on his shoulder. Witness accounts indicated that the officer had applied force, resulting in the man falling backwards and striking his head on the tarmac surface of a driveway. The fall resulted in a serious head injury. Tragically, the man later died of his injuries at the Auckland Hospital.
2. At approximately 11.06 am, a 63-year-old man, Mr Z, arrived at the Auckland City Mission, where staff engaged with him and provided a food parcel. They observed that Mr Z appeared to be under the influence of alcohol. Subsequently, Mr Z told Mission staff that he was feeling unwell and requested that they call an ambulance for him. Mission staff called St John's Emergency Services. While waiting for their arrival, Mr Z displayed aggressive behaviour. He started throwing items, including a jar of peanut butter and his backpack, at a staff member. Mission staff became concerned about the safety of their staff, as well as that of other clients who used the driveway entrance to access the Mission. Consequently, they contacted Police.
3. At 1.52 pm, a St John's ambulance, staffed by three Emergency Medical Technicians, arrived to provide assistance to Mr Z. Upon their arrival, the St John's staff similarly observed that he appeared to be under the influence of alcohol. Mr Z reported experiencing issues with his breathing and chest, although he was unable to provide further clarification regarding his symptoms. He insisted on being transported to Auckland Hospital. During his medical examination, Mr Z exhibited aggressive behaviour and was verbally abusive towards the St John's personnel. Ultimately, the medical personnel did not identify any issues that raised concerns about Mr Z's health.

4. At 2.05 pm, Officers A and B arrived and interacted with Mr Z, which led to the events outlined in paragraph 1. Police notified the Authority of the incident as required by section 13 of the Independent Police Conduct Authority Act 1988.¹ We conducted an independent investigation. Concurrently, Police conducted a critical incident investigation, which the Authority oversaw.
5. As part of the Authority's independent investigation, we monitored the interviews conducted by Police with Officers A and B and interviewed them ourselves. We also interviewed seven witnesses, including staff from the City Mission, St John's Emergency Services, and other eyewitnesses. We reviewed all Police records, which encompassed statements, reports, and CCTV footage of the incident. This report outlines the findings of our independent investigation.

The Authority's Findings

Issue: Was Officer A's contact with Mr Z reasonable?

Officer A placed his hand on Mr Z's shoulder in a guiding manner and did not push him.

Officer A's actions were reasonable in the circumstances.

We agree with the concurrent Police investigation that no prosecution should be initiated against Officer A.

Analysis of the Issue

ISSUE: WAS OFFICER A'S CONTACT WITH MR Z REASONABLE?

6. In this section, we outline Officer A's interaction with Mr Z, followed by an evaluation of the nature of their contact. We also assess whether Officer A's actions were reasonable in the circumstances.

What happened?

7. Police records indicate that Officers A and B were dispatched to a situation involving an aggressive male who was refusing to leave the City Mission's premises. The Northern Police Communications Centre informed the officers that medical staff were on-site and emphasised the urgency of Police attendance to ensure the safety of the ambulance personnel.

¹ Section 13 says: "Where a Police employee acting in the execution of his or her duty causes, or appears to have caused, death or serious bodily harm to any person, the Commissioner shall as soon as practicable give to the Authority a written notice setting out particulars of the incident in which the death or serious bodily harm was caused."

What does the CCTV footage show?

8. A business located across from the City Mission had a CCTV camera directed at the street. This camera captured some of the events that occurred in the Mission's driveway.
9. The following summary outlines the main aspects of what transpired:
 - Upon their arrival, Officers A and B approached and spoke with Mission staff positioned at the top of a moderately sloped, tarmac driveway.² A St John's ambulance was parked in the driveway, with its rear facing the City Mission building and its front facing the road (and also the camera's field of view). At this point, Mr Z was being examined at the rear of the ambulance and is thus not visible.
 - As the officers spoke with Mission staff, Mr Z appeared from the rear of the ambulance and threw his jumper on the ground in front of Officer A's feet.
 - Mr Z retrieved his jumper and initiated conversation with Officer B. He gestured with his right hand, pointing towards Officer B, who redirected his hand away from her person.
 - Mr Z exhibited noticeable unsteadiness while on his feet, causing him to stumble in the direction of Officer B. In response, she extended her hand out to steady him. However, Mr Z regained his balance and continued conversing. Throughout this interaction, Mr Z gesticulated a lot, pointing several times at the ambulance personnel.
 - Officer B retrieved Mr Z's backpack from the ground and removed a near-empty bottle of wine from it, subsequently setting the bottle alongside the building and placing the backpack in front of Mr Z, who continued gesticulating at the ambulance personnel.
 - Mr Z directed his focus toward the officers and engaged in conversation with them, now pointing his finger at the officers. Mr Z was visibly upset and forcefully threw his jumper against the side of the ambulance.
 - At this juncture, Officer A retrieved Mr Z's backpack from the ground and approached him, offering him the backpack. Simultaneously, Officer A raised his right hand while closing the distance between them. However, due to the footage being captured from a distance, it is unclear whether or how Officer A's hand made contact with Mr Z.
 - Mr Z was standing on the sloped driveway, facing the ambulance with his right-side profile facing the camera. As Officer A approached him, Mr Z's left arm transitioned behind his back, while his shoulders remained stationary and perpendicular to the ambulance.
 - This was followed by Mr Z stepping about on the driveway. At this point, it appears that Mr Z began to lose his balance. His torso rotated toward Officer A, and Mr Z's left arm and hand

² According to Police measurements, the slope has been recorded at an approximate angle of 7.4 degrees, corresponding to a gradient of 12.9%.

moved upward. Similarly, Officer A's right hand moved upward and away from Mr Z. This is when Mr Z began to fall backwards.

- As this unfolded, a white truck passed by, temporarily obstructing CCTV camera visibility. Once the truck has cleared the area, Mr Z can be seen lying on his back on the tarmac.

What do the witnesses say happened?

10. Three groups of witnesses saw the incident and provided statements to Police. City Mission staff, St John staff, and staff in an office across the road from where the incident occurred. The accounts provided by individuals within each group showed notable similarities in key details. Rather than presenting a verbatim account of each witness's statement, we summarise the essential elements of their accounts as they relate to Officer A's actions. We then address discrepancies between the witnesses' accounts and the CCTV footage.

The account of a City Mission staff member:

11. During Officer A's interaction with Mr Z, a single staff member from the City Mission was present. The other staff members did not see Mr Z fall. The witness described that she heard Officer A asking if Police could take Mr Z home. However, Mr Z appeared to only want to go to the hospital.
12. The staff member says, at one point, Mr Z aggressively lunged at Officer A with his arms. In response, Officer A stepped forward and raised both his hands. It was unclear whether Officer A's hands made contact with Mr Z. Consequently, Mr Z stumbled and fell backwards, hitting his head on the ground.

The accounts of St John staff members:

13. Three staff members from St John's were nearby, standing at the back of the ambulance, and witnessed the interaction between Mr Z and Officer A. Mr Z had a safety alert in the Police database indicating that he may be verbally abusive to staff. His medical history revealed similar instances where he contacted ambulance staff, claiming to have breathing difficulties and requesting transportation to the hospital. In these cases, the staff did not identify any medical concerns and frequently took him home or to the hospital.
14. The staff members observed that, upon the arrival of Police, the officers offered to take Mr Z home, an offer he initially accepted. However, he subsequently became verbally abusive, telling the officers to *"fuck off"*. Officer B told Mr Z that they would not transport him if he continued to talk in such a manner. During their interactions, Mr Z became more aggressive and threw his jumper against the ambulance.
15. Officer A walked towards Mr Z and told him that he needed to leave. The accounts from the three staff members indicate that Officer A pushed Mr Z with both hands on his shoulders or chest. The level of force was described as ranging from light to moderate in intensity, *"not enough to push someone over, but enough to get Mr Z to move along."* All three staff members

concluded that Mr Z, intoxicated and standing on a slope, lost his balance and fell backwards, hitting his head on the ground.

The accounts of the other eyewitnesses:

16. Four additional witnesses were situated in an office building across the road and observed some of the events that occurred in the driveway from that location.
17. According to these witnesses, they all report seeing a man who exhibited very animated body language. He gesticulated frequently and pointed his index finger in various directions. After Officer B took a bottle out of the man's backpack, the man became agitated and threw his jumper at the ambulance parked in the driveway.
18. Mr Z had his back turned to the witnesses and was facing Officer A, with whom he was conversing. According to one witness, Mr Z suddenly raised both of his hands and lunged at Officer A, directing force toward him as if attempting to punch the officer. Another witness described Mr Z as: *"... taking a swing at the male Police officer. It looked like he was trying to throw a punch with his right hand."* A third witness added: *"It appeared that the guy was trying to punch the male Police officer with his right hand; he cocked it back, clenched his fist, and seemed to throw it towards the officer, but he did not actually make contact."*
19. According to the witnesses, in response to this action, Officer A tried to fend Mr Z off by either putting his hands up or pushing him. Mr Z did not put his legs back and keeled over backwards, falling with his head on the ground.

What does Officer A say happened?

20. Officer A outlined that they were dispatched to a priority job at the City Mission, where an intoxicated male was throwing items and acting aggressively towards the staff. Ambulance personnel were also called and were already on the scene. Upon their arrival, St John's staff were examining Mr Z, who was behaving aggressively. Officer A observed that Mr Z appeared to be intoxicated. Specifically, his speech was slurred, and his coordination was impaired, as he seemed slightly off balance.³
21. According to Officer A, St John's staff informed the Police that they could not find anything physically wrong with Mr Z, who then began to swear at them and demanded that he be taken to the hospital. Officer A says he offered to take Mr Z home, believing that he lived nearby. However, after discovering that Mr Z actually lived quite far away, he explained that they could take Mr Z to a nearby bus or train station instead.
22. Officer A relates that this made Mr Z angry, who then threw his jumper against the ambulance, repeatedly saying *"fuck you."* Officer A says that he became concerned about Mr Z's escalating aggression, particularly given the presence of nearby bystanders. Officer A decided it was best to move Mr Z toward their patrol car, where they could safely discuss finding an appropriate

³ The Police investigation indicates that Mr Z's post-mortem examination revealed a blood alcohol concentration of 305 milligrams of alcohol per 100 millilitres of blood. In contrast, the legal blood alcohol limit for drivers aged 20 years or older in New Zealand is 50 milligrams per 100 millilitres of blood.

place to take him. Officer A explains that it was not his intention to arrest or detain Mr Z, but rather to calm him down and see how they could assist him.

23. Officer A describes that he picked up Mr Z's bag with his right hand and transferred it to his left hand. He then approached Mr Z to hand his bag to him. Officer A describes that he simultaneously extended his right arm to place a hand on Mr Z's shoulder in order to escort him away. According to Officer A, he simply rested his hand on Mr Z's shoulder and did not apply any force to push or move Mr Z.
24. Officer A describes what happened as follows:

"I reached out with my right arm, in an attempt to put my hand on his shoulder and escort him away. I used very little force; it was a reach out to put my hand on his shoulder. As I did this, the male lashed out and flinched, turning his body with some haste. He went from being at an angle to me to being face-to-face. This action was quite snappy and quick, as if he flinched or pushed away from my arm. This set the male off balance... I've not pushed him, he's pulled back... and that's when he's taken, two, three steps backwards... and then just kind of fallen backwards with his arms lifted up and fallen onto the back of his head."

What are the key conflicts in the accounts?

25. The witness accounts from the three St John's staff members described Officer A as using both hands to push Mr Z either on his shoulders or chest to move him along. They perceived that this action ultimately caused Mr Z to lose his balance on the slope and fall backwards, hitting his head on the tarmac surface of the driveway.
26. The other witnesses consistently described Mr Z as lunging at, lurching, or attempting to punch Officer A. In response to these actions, they perceived that Officer A either raised his hands to deflect the approaching force or applied a push to distance Mr Z from himself.
27. Officer A denies that he applied any force. (Officer B reports that she was not observing the incident at the time of Mr Z's fall.)
28. In light of these inconsistencies, it is necessary to rely on the CCTV footage as the best available evidence. An evaluation of the video recording clearly indicates:
- a. Officer A did not place both his hands on Mr Z's shoulders or chest area to push him; and
 - b. Mr Z did not lunge at, clench his fist, or retract his arm to punch Officer A as described.
29. Regarding the first discrepancy, Officer A can be seen holding Mr Z's backpack in his left hand while raising his right hand toward Mr Z's shoulder area. Thus, Officer A's account aligns with what can be observed in the video footage.
30. We spoke with the witnesses regarding this issue. They explained that they observed Officer A from behind and saw his arms rising. They did not see the backpack, and it seems they inferred that the officer moved and placed both hands on Mr Z's shoulders or chest area. We have also relayed Officer A's explanation of how Mr Z came to fall to the witnesses. They agreed that

Officer A's explanation was possible, with some affirming that the sequence of events as described by the officer is likely what occurred.

31. Concerning the second discrepancy, the witnesses who initially believed that Mr Z attacked Officer A have since reviewed the video footage and agreed that Officer A's description of events appears to be correct. They explained that they likely interpreted Mr Z's sudden movement of his arms and shoulder away from the officer as him preparing to punch the officer.
32. Some of the witnesses have also told us that they have discussed what they saw with each other before making their statements to the Police. Consequently, this may have influenced their perceptions. However, the witnesses affirmed that there were no coordinated discussions regarding the content of their statements to the Police, and they conveyed what they genuinely believed to have witnessed at the time, which we accept.

Which account do we prefer?

33. Regardless of the underlying reasons for the discrepancies, the inconsistencies between the accounts of eyewitnesses and the CCTV footage indicate that the eyewitness accounts cannot be relied on as an accurate record of the events that occurred. Furthermore, the majority of witnesses have acknowledged that Officer A's account is likely to be correct. Officer A's account was the most consistent with what could be observed in the CCTV footage, and he provided his account without having seen the footage.
34. Crucially, we do not believe Officer A had any reason for being angry at or wanting to push Mr Z. Regarding Officer A's state of mind, one of the St John's witnesses remarked:

"The male Police officer, who was very nice, was offering to give the male a lift to the bus stop. The male responded by saying fuck you, fuck this, and continued to ramble.... The male Police officer continued to offer him things and get nowhere... The male picked up his jacket and threw it against the side of the ambulance. The male Police officer then told the male, 'Alright, it's time to go.' It wasn't aggressive."

35. Moreover, the video footage shows Mr Z flinching his arm away as Officer A reached out towards him. As previously recorded, Mr Z's arm is observed moving behind his back prior to any noticeable movement of his shoulders. This observation suggests to us that Mr Z did not want to be touched by the officer and indeed flinched away as described. In our assessment, had Officer A first applied force to Mr Z's shoulder area, we would anticipate observing motion first affecting his shoulder area, followed by his arm; this did not occur.
36. Furthermore, the upward movement of both Mr Z and Officer A's arms immediately following their initial contact suggests that Mr Z swung his arm upward to disengage Officer A's hand from his shoulder. This action likely propelled Officer A's arm upward. If Officer A had purposefully pushed Mr Z's shoulder, we would expect his arm to move straight through, rather than disengaging as it did.

37. We recognise that our analysis is heavily reliant upon our interpretation of the CCTV footage. In any event, the evidence available does not support the conclusion that Officer A intentionally pushed Mr Z.
38. Based on the evidence, there is no reasonable likelihood that a prosecution could demonstrate beyond a reasonable doubt that Officer A's actions constituted an excessive use of force. For this reason, we agree with the Police recommendation that no charge would be justified here.
39. On the balance of probabilities, the Authority accepts that Officer A placed his hand on Mr Z's shoulder in a guiding manner and that he did not push him. Mr Z resisted and pulled away, losing his balance and falling to the ground. We therefore conclude that the officer's actions were reasonable in the circumstances.

FINDINGS

Officer A placed his hand on Mr Z's shoulder in a guiding manner and did not push him.

Officer A's actions were reasonable in the circumstances.

We agree with the concurrent Police investigation that no prosecution should be initiated against Officer A.



Judge Kenneth Johnston KC

Chair
Independent Police Conduct Authority

26 June 2025

IPCA: 24-25100

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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