IPCA
Independent Police Conduct Authority
Mana Whanonga Pirihimana Motuhake

Officers use force to apprehend a man at Tiniroto

1. At about 2.45pm on Thursday 12 December 2024, Police from Gisborne responded to reports that a man (Mr Z) was in a stolen Ford ute and believed to have a firearm. Information led five officers, all armed, and a Police dog, to Tiniroto, which is a small community inland between Gisborne and Wairoa.

2. The officers found Mr Z in the ute which was parked on the side of the road. It appeared Mr Z was asleep in the reclined driver's seat.

3. The officers approached the ute and, as it was locked, gained entry by smashing the side windows. Mr Z resisted but was eventually taken into custody. During his arrest, Mr Z was tasered multiple times, punched repeatedly in the head and twice set upon by the Police dog. Mr Z suffered a dog bite injury that required emergency first aid and transporting by helicopter to hospital.

4. No firearm was located by Police. Mr Z later made a full recovery. He was charged with offences relating to the unlawful taking of the ute, driving offences and resisting arrest. Mr Z pleaded guilty to all charges and was sentenced to imprisonment.

5. Police notified the Authority of their use of force against Mr Z, and we independently investigated by speaking to Mr Z, the five officers and reviewing the Police file and Taser footage. Our investigation particularly considered two questions which arose from our review of the Taser footage:

    - whether Mr Z had surrendered before the Police dog was deployed to bite him; and
    - whether it was necessary to repeatedly punch Mr Z in the head.

The Authority's Findings

Issue 1: **Did officers conceive an appropriate plan to apprehend Mr Z?**

Officer A developed an appropriate plan to apprehend Mr Z based on information received and assessment of the scene of the stolen ute.

Issue 2: **Were the officers' initial actions justified?**

The use of Tasers by officers was justified in defence of themselves and others.

Issue 3: **Was Officer D justified in deploying the Police dog the first time?**

Officer D was justified in deploying his Police dog to engage Mr Z in the ute in defence of himself and others.

Issue 4: **Were officers justified in using strikes, punches and the Police dog to subdue and secure Mr X?**

Officers A and E were justified in striking and punching Mr Z in defence of themselves and others.

Officer D was justified in deploying the Police dog to drag Mr Z away from the ute for the same purpose.

ISSUE 1: DID OFFICERS CONCEIVE AN APPROPRIATE PLAN TO APPREHEND MR Z?

6. When responding to a serious incident, such as that involving a report of an armed offender, Police are required to plan a response and then communicate this plan, and any intentions, in order to secure safely a favourable outcome. In this section we consider whether the plan adopted under the leadership of Officer A was appropriate for the circumstances.

What initially happened?

7. At about 9.20am on 12 December 2024, a man at Gisborne (Mr Y) rang Police to advise that his Ford ute had just been stolen from a car park in the city. Mr Y also told Police that he had an application on his phone which allowed him to track, albeit delayed, the whereabouts of the vehicle.

8. A short time later, Mr Y found his ute near to where it had been stolen. The vehicle was parked, and he approached it. He opened the driver's door and saw the driver, Mr Z, who he did not know. Mr Y then observed what he believed to be the barrel of a rifle tucked between the centre console and the front passenger seat and Mr Z appeared to reach for it, causing Mr Y to step back.

9. Mr Z quickly drove off in the ute, striking Mr Y with the wing mirror and injuring him. Mr Y updated Police, including information about a possible firearm. Mr Y went on to advise Police of the ute's ongoing whereabouts using the tracking app.

10. Police observed the stolen ute several times during the morning, but Mr Z evaded them, driving dangerously to get away.

11. During the morning, two officers who were later involved in his arrest (Officers D and E) came across the ute parked at a vacant residential property. Officer E saw Mr Z cradling what he suspected was a firearm. The officers attempted to lay road spikes, but Mr Z saw them and drove away. The officers searched the property, but did not find a firearm.

12. Mr Z was then seen at another property handing something to the occupant, potentially a firearm. Police searched that property and found different types of ammunition (used for two separate rifles), but no firearms.

13. At midday, Police communications issued a notification to frontline officers in Gisborne that the driver of the ute was not to be stopped as the male *"almost certainly has a long-barrelled firearm"* in the vehicle.

Did officers plan appropriately?

14. Due to the significant risks involved (including the continuing belief he was armed), Police were cautious in approaching Mr Z and decided that the Armed Offenders Squad (AOS) should locate and arrest him. A small team of AOS officers, led by Officer A with Officers B and C, and a tactical dog team which comprised a dog handler (Officer D) and supporting officer (Officer E), readied themselves at Gisborne Police Station. By this time Police had a suspected identity for Mr Z, noting he was a gang member who had alerts for possessing a firearm and using other weapons.

15. Eventually, information came forward from Mr Y that the ute had travelled to the area of Tiniroto, which is 60 kilometres inland from Gisborne, in the direction of Wairoa.

16. Officer A gathered all relevant information and at about 1.00pm, took his team, in two vehicles, to Tiniroto. At about 2.10pm, after searching various locations, information came from another officer that the ute was parked on the side of the road further along the inland route. It appeared the driver was asleep in the front seat.

17. The five officers went to that location and Officer A decided, due to the danger Mr Z posed to the public and Police, he needed to be apprehended promptly.

18. Officer A told us that he assessed Mr Z as posing a risk of serious injury or death to himself, Police and the public. He thought Mr Z *"definitely still had the firearm"* based on the ammunition located and the fact no firearm had been found, despite several possible sightings of Mr Z with a firearm. The fact Mr Z had seemingly hit Mr Y with the ute intentionally and driven dangerously to get away from Police, indicated to Officer A that Mr Z had a *"total disregard for life"* and was highly motivated to evade Police.

19. All the other AOS officers told us that they made the same assessment, which remained unchanged throughout the incident.

20. Officer A says he decided his team should take the opportunity to confront and arrest Mr Z. The rural setting minimised the risk to the public, however he was mindful there was a school nearby and it was approaching the time that parents and caregivers would be using the local roads to pick up children. He also planned contingencies should Mr Z flee in the ute.

21. Officer A proposed to use the two Police vehicles to block in the ute and then confront Mr Z, quickly removing him from the vehicle, away from any firearm secreted in the front passenger area.

22. Officer A sought approval for his plan from another supervisor at Gisborne and then, on briefing his officers, went about its application.

23. We agree with Officer A's risk assessment and his decision to act, and consider that his plan was appropriate based on information he received and what was presented to him.

FINDING ON ISSUE 1

Officer A developed an appropriate plan to apprehend Mr Z based on information received and an assessment of the scene of the stolen ute.

ISSUE 2: WERE OFFICERS' INITIAL ACTIONS JUSTIFIED?

24. In this section we describe what happened when the officers confronted Mr Z through to securing him in handcuffs outside the ute. We then assess whether Officers B and C were justified in firing their Tasers at Mr Z for approximately 50 seconds.

What does Mr Z say happened?

25. Mr Z told us he was trying to get away from Police who were chasing him, so drove out of Gisborne. He was sleepy and pulled over. When he woke up Police were surrounding him, telling him to put his hands on his head:

> *"All I remember was the window getting smashed and a dog coming in. And it latched onto my arm, yeah, so I was still half asleep. It latched onto my arm and I freaked out and I fuckin grabbed it and chucked, ripped it off… then the Police Tasered me and beat me up, and I ended up in hospital. Could just barely remember."*

26. Mr Z confirmed he had taken marijuana and methamphetamine. He claimed he never had a firearm and said that someone must have lied to Police.

27. In addition to the significant dog bite injury that required surgery, Mr Z told us he was dazed by the dog bites and punches to his head, and that two teeth later became loose and fell out. He had no front teeth at the time we interviewed him. We obtained his medical records and did not find evidence of damage to his teeth although it is noted that he complained about pain in that area. His medical records noted that Mr Z had no head injuries.

What do Police say happened?

28. This is a broad outline of what the officers say happened. More detailed accounts are set out in the relevant issue analysis, as required.

29. Officer B drove the patrol car that carried Officers A and C. Officer D drove the Police dog van with Officer E as passenger. As planned, Officers B and D drove their respective vehicles to park immediately in front of and behind the ute, which had its motor running. This tactic is designed to prevent a target vehicle from being able to drive away.

30. The time from initial approach to final detainment of Mr Z was just over two minutes.

31. Officers A, B, C and E say they quickly approached Mr Z, who appeared to have been asleep. Officer C tried to open the ute's driver's door, but it was locked, so he used a long-handled tool to smash the window. Mr Z sat up and Officer B immediately presented his Taser.

32. Officer A yelled commands to Mr Z to stay still apart from showing his hands, but Mr Z began to swing his arms around. Officer B fired both Taser cartridges through the broken window. Officer C did the same when he saw Mr Z was not experiencing temporary muscle lock-up (full neuromuscular incapacitation) and was moving his arms causing Taser probes to dislodge and reaching towards the gear stick. Both officers explained that, as they were within a metre of Mr Z, they fired both cartridges to ensure they had sufficient 'spread' between Taser probes to give the best possibly chance of achieving temporary muscle lock-up.

33. Despite almost continuous use of Tasers, Mr Z continued to move about in the ute cabin and move towards the central console and passenger side where officers say they thought a firearm was located. Officer A says Mr Z's thrashing and movements towards the passenger side made him fear Mr Z was about to shoot at them. He stepped back and unholstered his Glock pistol in case he needed to fire to protect himself and his colleagues.

34. Officer E says he was also extremely concerned by Mr Z's movements towards the passenger side of the car. He smashed the driver's side rear passenger window to reach in and unlock the driver's door to open it. When he reached in, Mr Z pushed his hands away. Officer E says he instructed Mr Z to show his hands multiple times, but Mr Z kept dropping them from view. Officer E says he eventually opened the driver's door and stepped back while presenting his rifle at Mr Z.

35. Officer A told Officers B and C to stop firing Tasers as they were not sufficiently effective and called Officer D and the Police dog forward.

36. The Taser footage, described in paragraph 46, indicates that Mr Z raised his hands at this point and more or less kept them raised for eight seconds. Neither Officers C, D nor E recall seeing Mr Z bringing his hands up in a surrender motion when the Tasers stopped. Officer B says Mr Z briefly put his hands up just before the Police dog jumped into the ute. Officer A recalls at one point Mr Z looked like he was going to surrender to Police, however he quickly dived to the passenger side (which prompted Officer A to unholster his Glock, as described above in paragraph 33). He also recalls, at about the time Officer E opened the driver's door, seeing Mr Z

"calm slightly" and become *"almost passive"* but *"this moment was very brief",* about *"a second or two."*

37. Officer D had been watching Mr Z's movements through the back window of the ute, first while sitting in the dog van, then while positioned at the passenger side rear bumper. He saw Mr Z *"continuously lunging and reaching over and into the passenger side footwell"* and says he believed he was trying to reach for a firearm.

38. On hearing Officer A's call for the Police dog, he approached and says he saw Mr Z lying across the seat reaching towards the passenger side, kicking out towards officers. He feared Mr Z was about to access a firearm.

39. Officer D says he moved to the driver's door pillar, where his view of Mr Z was slightly obscured. He says he thought it likely Mr Z now had the firearm. With his back to the passenger door, he *"threw"* the Police dog into the ute, but Mr Z fought the dog off using clothing and other items. The dog bit Mr Z's leg. However, Mr Z was fighting the dog and Officer D could not pull Mr Z out of the ute as intended. Officer D retrieved the dog and moved away.

40. Meanwhile, Officers A and E had moved to the passenger side of the car. They say Mr Z had shuffled over the centre console and was now sitting in the front passenger seat. Officer A says he broke the front passenger window and hit Mr Z on the back with the long-handled tool, however Mr Z continued to fight strongly and to reach under the passenger seat. Officer E opened the front passenger door and says he saw Mr Z form a fist as if to punch him. He grabbed Mr Z's fist and delivered several punches to Mr Z's head in order to stun and pull him from the car.

41. Both Officers A and E say Officer E pulled Mr Z out of the ute through the open passenger door onto the ground at this point. However, Mr Z continued to resist and reach back towards the passenger seat footwell.

42. Officer D commanded the dog to engage. It bit Mr Z's left forearm and dragged him away from the ute. Within seconds Mr Z began to bleed heavily. Officer D removed the dog as Mr Z weakened, and officers applied handcuffs. Officers administered first aid to stop the bleeding and called for the rescue helicopter to take Mr Z to hospital.

What does the Taser footage show?

43. Video footage was recorded from the two Taser units. Officer B's recording was 1 minute 51 seconds in duration and Officer C's was 1 minute 11 seconds. As both were being operated next to the driver's door, their footage is similar.

44. Mr Z is tasered almost continuously for 51 seconds while the officers instruct him to show his hands and not to move. The Tasers are not effective in temporarily incapacitating Mr Z. As described by the officers, he initially resists by waving his arms about before leaning towards the passenger side. Mr Z then propels himself further across to that passenger side and appears to be reaching for something. Mr Z pulls a large cushion out and thrusts it towards the officers.

45. Mr Z moves back to the driver's seat and continues to wave his arms and then strike out at Officer E's arm, as he attempts to unlock the driver's door through the broken window. When the door is opened, Mr Z is sitting upright in the driver's seat, stops resisting and holds his bent arms up above the steering wheel. Officer A can be heard ordering Officers B and C to stop discharging their Tasers.

46. Both Mr Z's hands are visible for approximately eight seconds when the Tasers are deactivated. He moves one hand briefly and is told not to move. A second later, he moves his right hand down to his lap which is covered by an item of clothing but, within a second, raises it again in what appears to be a surrender pose.

47. Officer D commands the dog to engage and it jumps onto Mr Z's lap. From this point onwards, Officer B's Taser camera provides the only clear footage.

48. Mr Z defends himself from the dog with the clothing. When that item is pulled aside by an officer, the Police dog again engages Mr Z, who moves himself backwards across the centre console into the passenger seat, so he is still facing the open driver's door.

49. With Mr Z now in the front passenger seat, Officer A breaks the passenger door window and hits Mr Z twice on the back with the tool. The Police dog is still being commanded to engage from the driver's side, but the angle of the footage prevents the dog's actions being visible. Officer E opens the passenger door and rapidly punches Mr Z's head about seven times. Officer E then grabs Mr Z's shoulders, but the camera pans away.

50. At this stage, both Officer B and C turned their Tasers off, which stopped the video record. Officer B's final footage is of Officer D moving around the back of the vehicles with his Police dog.

51. There is no footage of Officer E pulling Mr Z out of the ute and being assisted by Officer D and the Police dog.

Conclusion

52. In our view the Taser footage largely corroborates the officers' accounts. It is not entirely inconsistent with Mr Z's account, except for the order of tactics.

53. Officer C's Taser footage does show several seconds where Mr Z is apparently surrendering to Police, yet the Police dog is commanded to bite him. This is inconsistent with the officers' accounts and will be addressed in Issue 3.

What are the possible justifications for Officers B and C's use of their Tasers?

54. There are two sections of the Crimes Act 1961 sections that are potentially applicable to this situation:

- Section 39 of the Crimes Act 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".[1]

- Section 48 of the Crimes Act provides that any person, including a Police officer, is legally justified in using reasonable force in defence of themselves or another.[2]

55. Officers B and C referred to both sections 39 and 48 to explain their actions when reporting after the incident, and when speaking to the Authority. We considered both when assessing the information. However, it was apparent that their actions were primarily rooted in self-defence and in defence of their colleagues in the context of the extremely high perceived threat posed by Mr Z, who they say they believed had a firearm in the ute. This threat perception only increased throughout the incident as Mr Z remained unrestrained. For this reason, we have focussed our analysis on section 48 in this section, and in the next two Issues.

56. The section 48 analysis involves three questions:

1) What were the circumstances as the officer believed them to be (a subjective test)?

2) Was the officer's use of force against Mr Z for the purpose of defending himself/herself or another (a subjective test)?

3) Was the officer's use of force against Mr Z reasonable in the circumstances as the officer believed them to be (an objective test)?

What did Officers B and C believe the circumstances to be?

57. Officers B and C both say they believed Mr Z was in possession of a firearm and considered he was highly dangerous to Police and members of the public and willing to use significant force to get away. They could not allow him to remain at large.

58. They both say they identified the ute Mr Z was in as a threat, as it was large and powerful. The ute was running and Mr Z, while asleep, was in the driver's seat and capable of putting it into drive or reverse and forcing his way out of the vehicle block. This put officers in danger of being pinned against a patrol car or run over.

59. Officer B says his task was to ensure Mr Z did not try to reach for a firearm or put the ute into drive at the point Mr Z woke. Officer C was holding the window breaching tool to break the window and did not have any ability to protect himself at the moment he broke the window.

60. Officer B says when Mr Z was startled awake, he did not immediately comply with instructions to put his hands on his head. Officer B could not see a firearm, but there could have been one on the seat within easy reach. He decided to fire both Taser cartridges to get the best chance of temporarily incapacitating Mr Z to protect himself, Officer B and other nearby officers.

61. Both officers say they fired their Tasers and continued to reactivate them because Mr Z was still able to move and was fighting them despite repeated instructions to stop. This put all officers

[1] Section 39 of the Crimes Act is set out in the Appendix.
[2] Section 48 of the Crimes Act is set out in the Appendix.

at significant risk. Mr Z repeatedly reached for where the officers believed a firearm was secreted.

62. Officer B explained other tactical options, such as pepper spray, would likely affect the officers as much as Mr Z, and leave them vulnerable should Mr Z obtain a firearm. They could not disengage as, again, that left them at risk of allowing Mr Z to reach for the firearm or drive away.

63. We accept Officers B and C genuinely believed the situation was as they described it to us. The other officers give similar accounts, and state there were moments when they thought they would be shot at. The Taser footage, described in paragraphs 44-45, supports Officer B's and C's accounts.

Was the officers' use of force for the purpose of defending themselves or another?

64. We accept the two officers' evidence that their use of force was for the purpose of defending themselves and others from Mr Z.

65. While the officers approached Mr Z with the overall intention of removing him from the ute and arresting him, this was in the context of extreme and ongoing personal risk and the force applied was for the dual purpose of overcoming his resistance to arrest and in defence of themselves and their colleagues.

Was Officers B and C's use of force against Mr Z reasonable in the circumstances as they believed them to be?

66. Police policy permits officers to discharge a Taser when their assessment of the situation gives rise to an honest belief that a subject poses an imminent threat of physical harm to any person. Police perceived that Mr Z met those criteria from the moment he awoke.

67. Given the officers' belief that Mr Z posed an immediate and ongoing threat of serious injury or death to them, prolonged use of the Taser was proportionate and justified in our view. We accept that the officers stopped discharging their Tasers when told to by Officer A when it was apparent that the tactic was not achieving the required outcome, and Mr Z could not be pulled from the ute.

68. The fact that Mr Z was affected by methamphetamine and was able to knock out and break some of the Taser lines explains, to a degree, why the Taser discharges were not sufficiently effective.

69. When considering that all five officers believed Mr Z was in possession of a firearm, the use of Tasers by Officers B and C was reasonable.

FINDING ON ISSUE 2

The use of Tasers by officers was justified in defence of themselves and others.

ISSUE 3: WAS OFFICER D JUSTIFIED IN DEPLOYING THE POLICE DOG THE FIRST TIME?

70. In this section we assess what Officer D believed the circumstances to be when he commanded his dog to bite Mr Z, and especially if he (or any other officer) believed Mr Z had already surrendered to Police at this point. We then assess whether his actions were justified in defence of himself and other officers under section 48 of the Crimes Act. The assessment for section 48 is set out in paragraphs 54-56

What did Officer D believe the circumstances to be?

71. Officer D's actions are outlined in paragraphs 36-39. The relevant Taser footage is described in paragraphs 46-49.

72. In summary, Officer D says he could see Mr Z through the rear window of the ute. Mr Z remained unrestrained in the ute cab and repeatedly lunged towards the passenger side. He could see that the Tasers were having little effect.

73. When he was called forward, he saw Mr Z reaching towards the passenger side and kicking out at officers. He explained that he decided to deploy the dog for two reasons: because the tactics to that point were not overcoming Mr Z's resistance so that he could safely be removed from the ute and he knew his dog was capable of dragging Mr Z out; and because he had a *"massive"* concern about him getting the firearm and shooting at all of them:

> *"I saw the driver's door open. And then, I heard [Officer A] yell, 'dog-up,' which is a call for we need a dog here. At that point I was ticking away in my head going, making my threat assessment of the situation and like I said before I thought he's about to get shot when he grabs that gun. And my thoughts were he wants to use that gun against us for, either to get away or to hurt one of us."*

74. He says he was standing with his back to the rear passenger door when he swung the dog into the ute.

75. Officer B's Taser footage shows Mr Z lunged to the passenger side seven seconds before Officer D was called forward, but then it shows about eight seconds of Mr Z with his hands up intermittently in a surrender pose before the dog enters the ute. Officer D does not say he saw this or thought Mr Z was surrendering.

76. Officer B, who was positioned on the right side of the driver's door, and Officer A both say they saw a few seconds where Mr Z calmed. Officer B says he saw Mr Z put his hands up. Officer A told us at interview that when he watched the Taser footage, he was very surprised as it was not what he saw at the time as he had not perceived any sort of intention to surrender. He acknowledged the footage might give the impression that they could have acted differently, but being there he *"100% thought [he] was about to be shot."* He told us:

> *"... at the time it appeared like he was sort of striking out or trying to reach for the Taser. Upon seeing the footage, it didn't look like that, but what I can [say is] that is my heartrate was about 180 when I watched that the second time around and yeah I thought, 'that's not what I saw at the time,'"*

77. The question is whether it is credible that Officer D believed, as he says he did, that Mr Z posed a serious threat despite what can be seen on the footage. The footage is very concerning as it tends to suggest that the dog was deployed on a person who was no longer posing a threat.

78. Despite this, on balance, we accept Officer D's stated belief was genuinely held.

79. The *"dog up"* call that prompted Officer D to bring his dog forward came at the same point that Mr Z raised his hands. This was eight seconds before the dog was deployed. Officer D would be moving and then readying his dog and his position meant that he had a limited view of the interior of the ute. No other officer told him that Mr Z was surrendering, or the dog was now not needed (as, by their accounts, none of them perceived this to be the case). For these reasons it is plausible that Officer D perceived that Mr Z remained an unrestrained and serious threat, and able to swiftly access a firearm.

80. Mr Z was not obviously lying or reaching across the ute immediately before the dog was deployed, but again we accept that Officer D did not have the best view of Mr Z immediately prior to deploying the dog and it may have looked this way from his position. We accept then that Officer D perceived Mr Z was unrestrained and posed a threat.

Was Officer D's use of force for the purpose of defending himself or another?

81. As described above, Officer D says he deployed his Police dog for two reasons, one of which was to stop Mr Z from reaching over to access the firearm. The Taser footage does show Mr Z reaching over to the passenger side seven seconds before Officer D was called forward. We accept he acted to defend himself and his colleagues from being shot at by Mr Z.

Was Officer D's use of force against Mr Z reasonable in the circumstances as he believed them to be?

82. Officer D said his intention was to use the dog to drag Mr Z from the ute. The Tasers had been ineffective and, given the immediate risk that Mr Z would access the firearm, the officers needed to swiftly remove him from the ute.

83. The Police dog was a more significant use of force, capable of causing serious injuries. However, we agree that there were no other reasonable, less forceful tactical options available to do so in Officer D's assessment of the circumstances.

84. The Police dog was commanded to bite Mr Z's leg two to three times as Mr Z fought it off, and the dog was unable to get a strong bite allowing Mr Z to be dragged out. We are satisfied that Officer D disengaged and stood the dog down after it was apparent the tactic would not work in that setting.

FINDING ON ISSUE 3

Officer D was justified in deploying his Police dog to engage Mr Z in the ute in defence of himself and others.

ISSUE 4: WERE OFFICERS JUSTIFIED IN USING STRIKES, PUNCHES AND THE POLICE DOG TO SUBDUE AND SECURE MR Z?

85. In this section we assess what Officers A, D and E believed the circumstances to be when they used force to remove Mr Z from the passenger side of the ute and secure him in handcuffs.

86. This phase is only partially captured on Taser camera footage (see paragraph 49). The officers' account is described in paragraphs 40-42.

87. The assessment for section 48 is set out in paragraphs 54-56.

What did the officers believe the circumstances to be?

88. Officers told us that their assessment of the situation remained at the highest threat level, that Mr Z could cause them serious injury or death due to the likely presence of a firearm. Mr Z was now sitting in the passenger side of the ute where any firearm was easily retrievable. Officer A says he saw Mr Z reaching into the footwell.

89. Mr Z had fought through the application of Tasers and the Police dog, and he was still strongly resisting. Officer E told us he had never experienced a person fight so hard against Police.

90. Officer A told us Mr Z needed to be removed from the ute and secured as quickly as possible due to the threat they were all exposed to, but also that he wasn't sure how it was going to happen. He had picked up the window breaking tool when running to the other side of the ute and saw an opportunity to break the front passenger window and pull him out that side. He hit Mr Z's back with the tool to dissuade him from reaching into the footwell, but it was not effective.

91. Officer E said he saw an opportunity to open the passenger door through the broken window and grab Mr Z from the passenger seat. The Taser footage confirms Officer E's recollection that Mr Z was still fighting off the Police dog, and he tried to take advantage of Mr Z's distraction.

92. He says that Mr Z made to punch him which Officer E blocked and then delivered a rapid succession of punches to Mr Z's head. When asked his rationale, he explained:

> *"The only thing that I had left at that point was to punch him. I needed to arrest him right then and there. I had the opportunity to because I managed to get the door open and I was right there, so I needed to, I knew that if I tried grabbing him or whatever he was going to fight me off and he was going to do all that kind of stuff, so I needed to make sure that I could basically defeat him physically and psychologically so I could get him out of that car, so it was all to the effect of the arrest and the urgency of needing to do that as there was that firearm in the car."*

93. He also explained that the circumstances did not permit him to punch him once and check whether that had been sufficient to subdue Mr Z:

> *"I could've punched him once and then seen how he reacted to that, and then I could've punched him a second time to see how he reacted to that, a third time*

and seen how he reacted to that, but each time that I would've stopped or put a pause in my actions would've given him sufficient time to access that firearm, 'cos there was a firearm in the car, there was, that was my belief. So, I used force until I could see that it had taken effect and it turned out to be quite a few punches, and once I was happy that he was sufficiently deterred and dazed and not in a position to grab that firearm, I was able to stop and I was able to get him out of the car."

94. He disagreed with the suggestion that Mr Z's movements in the ute could reasonably be interpreted as him being terrified about what was happening and trying to get away from Tasers and the Police dog, stating he believed Mr Z was trying to reach a firearm. He was quite frank, saying that if he didn't deliver those punches either he or someone else could be shot.

95. He says he acted to overcome Mr Z's force in resisting arrest, but also in the context of the immediate threat that Mr Z would access and use the firearm. In both cases, he felt the multiple head punches was proportionate to the threat.

96. Officers E and A say Mr Z was still hard to control when they pulled him out of the ute. He was refusing to be handcuffed and trying to stand. Officer A said:

"[Mr Z] was in a seated position beside the car. He appeared to be wanting to get back into the car by leaning, reaching for the open-door area. What I mean by that, … the footwell of the passenger seat. Clearly making an attempt for under the seat again."

97. Officer D says despite being partially removed from the ute, Mr Z was still fighting the officers, and officers were *"losing the struggle"* to stop him getting back to the ute where Officer D still believed a firearm could be. He feared they could be shot any moment.

98. Mr Z was sweaty and slippery, and Officer D suspected Mr Z was drug affected (which he was). Officer D was also concerned about Mr Z grabbing the Officer A's and E's rifles which were slung in front of them.

99. He says he had to act immediately to stop Mr Z from harming him and his colleagues. He says he could not use pepper spray without affecting the other officers, and he could not guarantee that he could fire the Taser without hitting his colleagues or that he could space the Taser probes on Mr Z's body to achieve muscle lock-up. Hands-on tactics were proving insufficient.

100. For these reasons he decided to command his dog to bite Mr Z and then pulled him and the dog backwards away from the ute. Mr Z started to weaken, and the officers were able to apply handcuffs.

101. He says the severity of Mr Z's injury was not intentional, it was a rare and unfortunate outcome of having been bitten and dragged by the dog.

102. We accept that the officers' stated beliefs were genuinely held. It is entirely plausible that they should hold those beliefs in the circumstances they were faced with. They all believed there was an imminent risk of Mr Z obtaining a firearm and shooting at them. He was still fighting to evade arrest and was not tiring despite multiple tactics being used.

Did the officers use force for the purpose of defending themselves or another?

103. All officers say that they used the force they did either primarily or partially to defend themselves and their colleagues from the imminent threat of Mr Z obtaining a firearm and shooting at them. We accept this was the case.

Were the officers' uses of force reasonable in the circumstances as they believed them to be?

104. We accept that all the officers believed they faced a volatile, life-threatening situation which they were struggling to control. They remained at close quarters with Mr Z who they believed could, at any moment, produce a firearm and shoot them.

105. In these circumstances, significant force may be considered proportionate and reasonable.

106. Officer A's use of the breaching tool to hit Mr Z's back was a relatively minor and opportunistic use of force to stop him reaching for a possible firearm, and therefore proportionate and justified.

107. Officer E's multiple punches to Mr Z's head caused us some concern when we saw it on the Taser footage, as it looked particularly violent. However, the context is key, and Officer E's explanation and tactical rationale is persuasive. We accept that the threat was extremely high and urgent, in the circumstances as he perceived them to be, and different tactics were required. Strikes to a person's head are not justifiable in any but the most extreme circumstances, but we accept that this was such an occasion. Officer E needed to overwhelm and overpower Mr Z given the level of resistance Mr Z was offering, and we accept that to stop and check after one or two punches risked Mr Z regaining the advantage.

108. We also accept that Officer D's use of the dog to help subdue and remove Mr Z from within reaching distance to the ute's open door was proportionate and reasonable in light of the risks he perceived. We accept Officer D's assessment that other tactical options were unlikely to be effective, and that the threat Mr Z posed was urgent.

FINDINGS ON ISSUE 4

Officers A and E were justified in striking and punching Mr Z in defence of themselves and others.

Officer D was justified in deploying the Police dog to drag Mr Z away from the ute for the same purpose.

CONCLUSION

109. A Police team, led by Officer A, decided that the circumstances warranted prompt action to detain a person believed to be armed with a firearm and who had acted dangerously. Based on the officers' perception of the circumstances they faced, we accept their various uses of force were justified.

110. Video footage from two Tasers showed the officers' actions in the apprehension of Mr Z. We accept this was a fast moving and stressful situation where officers were acting with haste in

response to risks which they believed to be real. For this reason, we accept the actions of officers, and the force used upon Mr Z was justified and reasonable in the circumstances.

111. The life-threatening injury suffered by Mr Z was unfortunate and prompt medical attention provided by officers avoided a more serious outcome.

Judge Kenneth Johnston KC

Chair
Independent Police Conduct Authority

12 March 2026

IPCA: 24-25699

Appendix – Laws and Policies

LAW

Crimes Act 1961

112. Section 39 of the Crimes Act 1961:

> *"**Force used in executing process or in arrest***
>
> *Where any person is justified, or protected from criminal responsibility, in executing or assisting to execute any sentence, warrant, or process, or in making or assisting to make any arrest, that justification or protection shall extend and apply to the use by him or her of such force as may be necessary to overcome any force used in resisting such execution or arrest, unless the sentence, warrant, or process can be executed or the arrest made by reasonable means in a less violent manner:*
>
> *provided that, except in the case of a constable or a person called upon by a constable to assist him or her, this section shall not apply where the force used is intended or likely to cause death or grievous bodily harm."*

113. Section 48 of the Crimes Act 1961 states: *"Everyone is justified in using, in the defence of himself or herself or another, such force as, in the circumstances as he believes them to be, it is reasonable to use."*

POLICY

Arrest and Detention

114. Force used during an arrest must be reasonable and be used only when it is not reasonable to make the arrest in a less violent manner.

Use of Force

Police policy on the use of force

115. 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), pepper spray, batons, Police dogs, Tasers, and firearms.

116. Police policy provides a framework for officers to assess, reassess, manage, and respond to use of force situations, and ensure 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.

117. Police officers must also 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:

1) the incident type, location, and time;

2) the officer and subject's abilities;

3) the subject's emotional state;

4) the influence of drugs and alcohol and the presence or proximity of weapons;

5) similar previous experiences with the subject; and

6) environmental conditions.

Police refer to this assessment as an officer's Perceived Cumulative Assessment (PCA).

118. A key part of an officer's decision about 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:

1) cooperative;

passively resisting (refuses verbally or with physical inactivity);

2) actively resisting (pulls, pushes or runs away);

3) assaultive (showing an intent to cause harm, expressed verbally or through body language or physical action); or

4) or presenting a threat of grievous bodily harm or death to any person.

Ultimately, the legal authority to use force is derived from the law and not from Police policy.

119. 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 take 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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