

8. Our investigation focused on the adequacy of the Police investigation into the alleged abuse of Child X, the decision to issue a PSO against Mr Y in respect of Child X and whether it was appropriate for Police to use a PSO to remove Child X from Mr Y's care.
9. We made no assessments as to the accuracy of the allegations made about Child X by either Ms W or Mr Y, and we make no findings in respect of those allegations.

The Authority's Findings

Issue 1: Was the investigation into Ms W's allegations conducted appropriately?

Officer A failed to conduct appropriate enquiries to investigate Ms W's allegations.

Officer B failed to ensure Officer A had made appropriate enquiries.

Issue 2: Was Police's decision to issue a PSO against Mr Y and remove Child X lawful and justified?

The issue of the PSO and its use to remove Child X from Mr Y's home was neither lawful nor justified.

Analysis of the Issues

ISSUE 1: WAS THE INVESTIGATION INTO MS W'S ALLEGATIONS CONDUCTED APPROPRIATELY?

10. In this section we outline what Police policy says about Family Harm investigations and specifically how Police should respond to allegations of child abuse. We describe what happened when Ms W made her report to Police on 10 December 2025 and the actions taken by Police in response to her report. We then assess whether this response was appropriate and complied with policy.

What does policy say?

11. Police have comprehensive policy on Family Harm and the appropriate investigative processes. A critical principle, highly relevant here, is:

"a family harm approach takes a comprehensive view of the issues occurring within families to address the underlying causes of harm. Police need to view the situation as a whole with eyes wide open, be able to recognise family harm dynamics, the context of the harmful behaviour and the circumstances, and get a greater understanding of what is really going on."

12. The policy requires officers to undertake a "quality family harm investigation", which includes the following steps:

- Delve into the dynamics of the relationship and the wider context of what is happening in the family situation and environment.

- Capture the perspective of each party.
- Physically sight children.

13. The policy states:

“Where a child is at immediate risk of serious harm and the need for immediate protection may be necessary the officer should call OT [Oranga Tamariki] National Contact Centre for assistance (phone 0508 FAMILY).”

14. Police also have a specific policy for responding to abuse against children, the ‘Child Protection (Haumaru Tamariki) Investigation Policy.’ This policy outlines that the next steps after receiving the initial allegation of abuse are to consider immediate concerns for the child’s care:

“consider if there are immediate concerns for the child's care or safety requiring immediate intervention. (Family violence information may be relevant to determining the risk). Determine the appropriate action to ensure immediate safety, e.g.:

- *arrest if there is sufficient evidence of an offence and remove the offender from the home*
- *if there is insufficient evidence to arrest and charge the offender, consider issuing a Police safety order which would remove the person*
- *removal of child.”*

15. The policy then lists the options for removing a child:

- a) Section 42 of the Oranga Tamariki Act;
- b) and a Place of Safety Warrant: Section 39 of the Oranga Tamariki Act.

16. These are discussed further at paragraphs 55-61. A PSO is only included as an option to remove an offender from the home. It is not included as an option to remove a child.

17. The policy goes on to state that, *“if the situation does not require immediate intervention”* the officer should complete a Child Protection Protocol (CPP) referral form and email it to Oranga Tamariki and the local Police CPP contact for further investigation. The referral must be completed before the officer finishes duty on the day of the report.

What happened?

18. When Ms W went to the Police station, Officer A took her formal written statement outlining the alleged disclosure of physical abuse from Child X. Ms W told Police:

- On 29 November 2024, Child X told her that he had been hurt by Mr Y and Ms Z.

- Child X said the abuse included Mr Y and Ms Z slapping Child X across the face; Ms Z grabbing Child X's wrist and smacking his hand against furniture; and Mr Y shutting Child X's hand in the car door and walking away.
- Child X had become unhappy to be with his father and would become upset if Mr Y's name was mentioned. He had started to refuse to go to kindergarten and would hide in the cupboards when they needed to leave the house.
- Ms W outlined possible witnesses, including a kindergarten teacher, who Ms W said had spoken to her "*about [Child X] not wanting to go home with [Mr Y].*" Ms W was able to provide the first name of the kindergarten teacher. She also named an older child who released Child X's hand from the car door and got him ice.
- Ms W did not have any photographs of Child X's injuries to show Officer A. However, she told Officer A that she had seen Child X with a bruise on his face recently, and one of his fingernails was broken which she believed was from the car door.

Ms W had been talking to her lawyer to get a parenting order in place, as she and Mr Y currently had an informal custody agreement.

- Following this disclosure, Child X was returned to Mr Y's care as per their informal custody arrangement. Ms W had gone to Police on 10 December 2024, because Mr Y sent her a text message that he would not return Child X to Ms W's care unless she agreed to attend mediation. Officer A saw these text messages.
19. Officer A took the information provided by Ms W to his supervisor, Officer B, to consider the best plan to protect Child X.
 20. After Officer A took Ms W's statement, he went to Officer B to discuss it. At 4.02pm, Officer B's notebook shows "*consideration had been requested*" over issuance of a PSO for child safety. Officers A and B agree they decided to issue the PSO and remove Child X from the home during this meeting.
 21. Officers A and B determined a PSO would be the best course of action to keep Child X safe for the following reasons:
 - They believed Child X was at risk of physical abuse and some action from Police was required to keep him safe.
 - They believed Mr X and Ms Y were likely causing the harm against Child X, and therefore they needed to remove him from their home.
 - They did not have enough evidence to arrest or charge Mr X or Ms Y.
 - They did not believe the risk to Child X met the threshold for immediate uplift under Section 42 of the Oranga Tamariki Act.

- They did not think it was appropriate to leave Child X in Mr Y’s care for the length of time it may take for Police to apply for a Place of Safety warrant under Section 39 of the Oranga Tamariki Act.
22. At 4.30pm, Officer A filled in the details on the PSO. He named Ms W and Child X as the protected parties, and Mr Y as the bound person. Ms Z was not mentioned in the PSO.
 23. Officer B determined a three-day PSO would be appropriate to ensure there was enough time for the matter to be referred to Oranga Tamariki and for Oranga Tamariki to investigate the alleged assault. This also allowed time for Ms W to seek support and apply for parenting and protection orders.²
 24. At 6.45pm, Officers A and C arrived at Mr Y and Ms Z’s home to serve Mr Y with the PSO.³ At the time Police arrived, the family was eating dinner. Officer A spoke briefly to Mr Y and explained there was an allegation against him relating to the safety of Child X, which meant they needed to remove Child X from the home.
 25. Mr Y asked if there was anything he could do to stop this from occurring, Officer A confirmed there was not. Mr Y told us he offered to leave the home so Child X could remain with Ms Z and her children. Mr Y also told us he asked if there was any way to get a review of the situation, which he described as “insanity”. He was told there was not, and there was nothing he could do. Mr Y told us he felt powerless, as if Police had made up their mind already.
 26. Mr Y went inside to get Child X and tried to explain to him what was going on. Mr Y told us it was confusing for Child X, because “he sees cops as getting the baddies”, and now they were at his house to collect him, and he didn’t know why. As Child X left Mr Y’s home, Mr Y told us “he was crying, wanting hugs, didn’t really understand what was going on”. The other children in the home were also visibly upset.
 27. Officer A told us no consideration was given for removing the other three children, as there were no allegations relating to them. Mr Y spoke to us about his confusion around this decision, given Police deemed he was a threat to Child X, he did not understand why they would not have removed the other three children to protect them from the alleged harm.
 28. Officers A and C chose not to place Child X in the Police car to avoid scaring him, and instead walked him to Ms W, who was in her vehicle at the top of the drive.
 29. Mr Y explained that as Police left:

“I got a piece of paper saying I’m not allowed to talk to him, see him, not allowed to contact him, otherwise I could go to jail. Just left with no information, just that I will get told something hopefully at the end of three days.”

² Protection orders are issued by the Family court where the court is satisfied the respondent has inflicted, or is inflicting, family violence against the applicant or a child of the applicant’s family and the protection order is necessary for the protection of the applicant and or that child (s79 Family Violence Act 2018)

³ Officer C had minimal involvement with the service of the PSO, as their attention was required across the road.

What steps did Officer A take to investigate Ms W's allegations?

30. Officer A spoke to Ms W, took her statement and reviewed text messages between her and Mr Y. He did not take any further steps before making the decision to seek a PSO and remove Child X.
31. When we asked Officer A what evidence informed his decision making, he told us:

"I guess I just had to believe [Ms W]...she signed the statement to say that it was true and correct what she was telling me, I didn't have anything else to back it up...it was based on her statement."
32. When we asked Officer A why he didn't investigate further, he told us that his priority was to ensure that Child X was safe moving forwards. He said another team would conduct enquiries and take statements after he had made sure Child X was safe.

Was the investigation into Ms W's allegations adequate?

33. When Ms W gave her statement to Officer A, it was within business hours on a Tuesday. She told him Child X had told her about the alleged abuse 11 days prior (it is not clear exactly when the alleged abuse occurred). Ms W allowed Child X to return to Mr Y's care before reporting her concerns. She told Police she was making the report because Mr Y had messaged her about not returning Child X to her if she did not agree to mediation.
34. Given these factors, we consider Officer A had time to conduct a *"quality family harm investigation"*, as outlined in Police policy. We believe it would have been a reasonable for Officer A to make enquiries and gather further evidence before taking any steps to remove Child X from Mr Y's home.
35. This could have looked like one or more of the following:
 - Officer A contacting the kindergarten teacher who Ms W named and speaking to her about Child X.
 - Officer A visiting Child X in Mr Y's home, to observe his behaviour and note any visible injuries.
 - Officer A speaking to Mr Y and Ms Z to ascertain their version of events.
 - Calling Oranga Tamariki to speak to them about Child X, the family, any relevant history he should know, and what next steps would be appropriate.
36. If these witnesses or observations supported Ms W's version of events, this would have provided Officer A with a stronger foundation to protect Child X using one of the available legal powers.
37. Although it is clear Officer A had a genuine concern for Child X's safety, we do not believe that his actions were in line with Police expectations to *"view the situation as a whole with eyes wide open"*.

38. Officer A told us he “*had to believe*” Ms W’s statement, even though he accepted there was nothing to support her evidence in respect of the alleged assaults against Child X.
39. Our investigation did not consider the accuracy of Mr Y or Ms W’s claims, and we make no conclusions regarding this; rather, our focus was on evaluating the Police response to Ms W’s concerns about Child X. In doing so, we do not accept that Officer A *had* to believe what Ms W told him. Rather, we would expect Officer A (an experienced Detective working in a specialised Family Harm Team) to examine and appropriately test Ms W’s evidence particularly given:
- The period between Child X reportedly telling Ms W about the alleged abuse on 29 November 2025 and Ms W reporting this to Police on 10 December 2025 (11 days).
 - Child X had, with the agreement of Ms W, returned to Mr Y’s care on 6 December 2025 and been in his care, apparently without incident, for four days prior to Ms W’s report.
 - Ms W and Mr Y were in a custody dispute involving Child X. They had attempted mediation, but this had broken down. Ms W was consulting a lawyer and intended to apply for a parenting order.
40. Policy requires officers to consider (often complex) family dynamics and capture each parties’ perspective. In our view, this should include turning their mind to the possible motivations for a person’s report to Police and, where there is limited independent evidence to support allegations (as in this case), seek a response from the other parties involved.
41. The District Area Prevention Manager’s review concluded that,
- “It appears the PSO was approved prior to speaking with [Mr Y] and seeing [Child X]. While this wouldn’t necessarily have changed outcome it would have been desirable to obtain as much information as possible prior to deciding a course of action.”*
42. In our view it was not only desirable but necessary for Officer A to obtain more information including speaking to Mr Y prior to deciding on a course of action.
43. If Officer A had completed further enquiries following Ms W’s statement, these would have either supported or challenged Ms W’s version of events. Officer A would then have been able to take, decisive and lawful action to keep Child X safe, informed by the available evidence.
44. When interviewed, Officer B told us he would expect OT to be contacted and enquiries such as taking a statement from Child X’s kindergarten teacher but suggested this could happen after Child X was removed from the home.
45. When it was suggested to him that Police would need more evidence to remove Child X from his father, Officer B disagreed, he felt Ms W’s statement was enough. He offered this example:
- “If I went to a house and a female was there and was telling me that she had been assaulted and had injuries specific to that and wouldn’t give me a statement, I would arrest and take him to court and tell the judge that I believe her...(Child X’s) situation is not different.”*

46. We disagree Officer B had to believe Ms W’s allegations, particularly as in this case, there was no independent evidence available to Police, such as injuries to the child, to support Ms W’s statement.
47. In such circumstances, we would have expected Officer B as the supervising officer to ensure that Officer A had conducted appropriate enquires to test the evidence provided by Ms W.

FINDING ON ISSUE 1:

Officer A failed to conduct appropriate enquiries to investigate Ms W’s allegations.
Officer B failed to ensure that Officer A had made appropriate enquiries.

ISSUE 2: WAS POLICE’S DECISION TO ISSUE A POLICE SAFETY ORDER AGAINST MR Y AND REMOVE CHILD X LAWFUL AND JUSTIFIED?

48. In this section we consider the law and policy around PSOs. We outline why Officer A and B decided to issue a PSO and uplift Child X. We then address whether this action was justified.

What does the law say about PSOs?

49. Section 28 of the Family Violence Act 2018 says that:

“A qualified constable may issue a Police safety order in the prescribed form against a person (A) who is, or has been, in a family relationship with another person (B) if the constable has reasonable grounds to believe that the issue of an order is necessary to help make B safe from family violence.

In deciding if the reasonable grounds to believe required by subsection (1) exist, the qualified constable must have regard to the matters specified in Section 29.”

50. Section 29 of the above states that:

“In considering whether to issue an order against A, the qualified constable must have regard to the following matters:

(a) whether, in the circumstances, the constable considers it is likely that—

(i) A has inflicted, or is inflicting, family violence against B:

(ii) A has inflicted, or is inflicting, family violence against any other person with whom A has a family relationship:

(b) whether there is a likelihood that A will inflict, or again inflict, family violence against B:

(c) the welfare of any children residing ordinarily or periodically with B:

(d) the hardship that may be caused if the order is issued:

(e) any other matter the constable considers relevant.”

What does all of this mean?

51. A PSO can be issued by an officer against someone (the “bound person”) if the officer has “*reasonable grounds to believe*” the order is necessary to help make another person (the “person(s) at risk”) - who is or has been in a family relationship with the bound person - safe from family violence. This means the officer must have a sound, objectively determined basis for their belief, supported by sufficient evidence or information.
52. In deciding whether to issue a PSO, the officer must consider the relevant factors set out in Section 29 including whether it is likely that the bound person has inflicted, is inflicting or will inflict family violence against the person(s) at risk or any person they have a family relationship with. It follows that Police should take reasonable steps to identify and consider the available evidence relating to the factors set out in Section 29.
53. The PSO can be issued for up to 10 days. When deciding on the length of the PSO, the officer must again consider the factors set out in Section 29.
54. There is no provision in the Family Violence Act enabling Police to uplift children. However, any day-to-day care or contact arrangement in place for a child who ordinarily or periodically lives with a person named in the order will be suspended.⁴

What does the law say about removing children?

55. There are specific powers available to Police to facilitate the removal of a child from a parent when they are in danger.
56. Police may apply for a place of safety warrant under Section 39 Oranga Tamariki Act.
57. A District Court Judge or Family Court Associate can issue a Place of Safety Warrant. The warrant authorises an officer to enter a home or vehicle to check on the child and remove the child if they have reasonable grounds to believe the child “*has suffered, or is likely to suffer, ill-treatment, serious neglect, abuse, serious deprivation, or serious harm.*”
58. Place of Safety Warrants are treated as urgent; a Judge will usually deal with an urgent application on the same working day as it is issued.⁵
59. In *S, re A Child (1991) 8 FRNZ 376* the Court held that there were no proper or reasonable grounds for a Place of Safety Warrant granted to the Department of Social Welfare. In this case the Social Work team applied for the warrant to remove the child based on information from a therapist concerning the child’s mother. This information was not properly tested and there had been no effort to check the therapist’s credentials or speak to the father of the children. The Judge commented that: “*while it is of paramount importance that children at risk be protected,*

⁴ S41 FVA 2018

⁵ <https://communitylaw.org.nz/community-law-manual/chapter-13-dealing-with-oranga-tamariki-ministry-for-children/if-oranga-tamariki-takes-urgent-action/>

the power to protect them must be exercised in a responsible way, on a proper basis, and after full and informed consideration of all relevant facts.”

60. Section 42 Oranga Tamariki Act allows a Police officer to enter and search any home, building, or vehicle and remove a child without a warrant if they believe, on reasonable grounds, that it is *critically necessary to protect a child or young person from injury or death*.
61. The above powers allow Police to remove children from the care of their parent/guardian and place them in the care of Oranga Tamariki. There is no specific power available to Police to transfer the care of a child from one parent/guardian to another.
62. A parent may apply “*without notice*” for a parenting order where they can show there is a risk to their personal safety or the personal safety of their child. A Judge will consider the application and decide whether to make an order, usually within 24-48 hours, without the other parent being told.
63. A Judge may also issue a warrant to enforce the Parenting Order. Police may act on this to remove a child from a parent who is not following the Parenting Order.⁶

What was Officer A’s understanding of the situation when the PSO was issued?

64. Officer A believed he could issue a PSO to make Child X safe from Mr Y. His belief was based on the following:
 - Child X and Mr Y were in a family relationship.
 - Ms W’s allegations outlined that Child X needed to be kept safe from Mr Y due to family violence.
 - There was not enough evidence to arrest Mr Y, but he thought he could use a PSO to get Child X to immediate safety. Child X could be returned to Ms W’s care for the duration of the order.
 - Once Child X was safe, then further investigations could occur.
65. Officer A thought he had reasonable grounds to believe the order was necessary, based on Ms W’s allegations of Child X being at risk in Mr Y’s home. His primary concern was the safety of Child X.
66. He told us he did not think Child X’s situation fitted the criteria for a warrantless uplift under Section 42 of the Oranga Tamariki Act because “*that probably seemed a bit more serious, like serious injury or death, and I don’t think it was quite at that level*”.
67. Officer A also did not think it was appropriate to delay by waiting for the Court to issue a Place of Safety Warrant.

⁶ S72-73 Care of Children Act – Family or District Court may issue a warrant to enforce day to day care or contact with a child.

68. Officer A did not recall if it was him or Officer B who thought of the idea, but they decided that a PSO would be used to uplift Child X. Officer A had never done so before (and hasn't done so since), but at the time he thought *"It was a tool that we could use, fairly fast, get the child safe straight away"*. He described the PSO as the *"least restrictive"* mechanism available.

What was Officer B's understanding of the situation when the PSO was issued?

69. At 4.12pm, a notebook entry in Officer B's digital notebook reads as follows:

"Considerations female is seeking to apply for PO and parenting order. Child is at risk with father of further physical abuse. CPP referral to be completed and passed on accordingly. Couple reside at separate addresses so no undue hardship. Duration considered to allow others such as OT and CPP to make safety plans and investigation. Child safety is paramount. Decide on 3 days approved to allow further investigation, child safety and OT follow up around an initial scope interview with child."

70. Officer B told us he thought a PSO was an option for protecting Child X, although he couldn't recall a time it had been used in such a way before. He shared a similar understanding to Officer A, that Police could use a PSO to make Child X safe from alleged family harm perpetrated by Mr Y. When we interviewed Officer B, he acknowledged *"it is a different way of doing things"* but also said, *"I can't see where it says we can't issue"* a PSO in this way.
71. Officer B explained to us that Child X's safety was his primary concern at the time. When we asked Officer B about the urgency for removing Child X, it was clear that Officer B had been under the mistaken impression that the alleged harm had occurred recently, on or near 10 December 2024. Tellingly, given the key issue of whether Police undertook an adequate investigation, Officer B told us that he would not have authorised the PSO if he had known Child X told his mother about the abuse 11 days earlier.⁷

Was the PSO justified?

72. When interviewed, Officer B disagreed with our suggestion that officers would require sufficient evidence to decide on an objective basis that the PSO was necessary and told us that the thresholds for PSOs *"aren't that high."*
73. It is correct that the threshold to issue a PSO is lower than, for example, the threshold to prove a criminal offence. However, officers must still consider the factors set out in Section 29 of Family Violence Act, review the available evidence relevant to those factors and have enough evidence to support a reasonable belief that the order is necessary to make the person at risk safe.

⁷ Officer B said had he known of the time between the alleged abuse and the statement being made, "I would probably look at home visiting the child and the father to make sure there was safety in place for the child...I would have put it to Child Protection team and let them do the normal case consult and prioritise it from there".

74. At the point of issuing the PSO, Officer A's 'reasonable grounds to believe' were based on Ms W's allegations within her statement and the text message she showed him.⁸
75. We are not satisfied that Police had enough evidence to support a reasonable belief that Mr Y had ever or would ever abuse Child X or that an order was necessary to keep Child X safe. We therefore consider that the PSO was unjustified.
76. As we have already discussed, Officer A did not collect any independent witness statements, photographs, or investigate further to corroborate Ms W's claims. He did not speak to Mr Y or Ms Z. He did not step inside the family home or observe Child X or the other children.
77. Both Officers A and B told us they made a premeditated decision to issue a PSO, based solely on Ms W's allegations.
78. While these allegations were serious, and certainly some Police action was required, we do not agree that there were reasonable grounds to believe a PSO was necessary to help make Child X safe based on Ms W's evidence alone. Officer A could have gathered more information prior to bolster his belief, but he did not do so.

Was the removal of Child X from Mr Y's care using a PSO justified?

79. We set out the available Police powers to remove children above at paragraphs 55-61. As acknowledged by both Officers A and B, the situation was not urgent enough to use their powers under Section 42 of the Oranga Tamariki Act 1989. We agree the high threshold set out in Section 42 would not be met in these circumstances.
80. Police could have applied to the Court for a Place of Safety Warrant under Section 39 Oranga Tamariki Act. However, we question whether this application would have been successful based on Ms W's evidence alone. In our view Police would likely have needed to gather further evidence to support an application.
81. The case of *S, re A Child* discussed at paragraph 59 above, sets out an expectation that where information is relied on to remove a child from the care of his/her parent, this information will be properly tested and the power to remove a child will be exercised after "*informed consideration of the relevant facts*". In our view Officers A and B failed to properly consider and test the evidence before deciding to remove Child X and did not use an appropriate power to do so.
82. Both Sections 39 and 42 provide that children may be removed and placed in OT care. In this case, we acknowledge Police were not seeking to place Child X with OT. Instead, they uplifted Child X from his father's home and placed him in his mother's care. There is nothing in legislation which empowers Police to intervene in this way without a warrant from the Court.

⁸ The text message corroborated Ms W's account that Mr Y had said he would not return Child X to her care until she attended mediation with him.

83. In our view, PSOs are not the correct tool and should not be used under any circumstances to remove children from the care of a parent, nor to forcibly transfer the care of a child from one parent to the other.
84. The text message from Mr Y to Ms W, and Ms W having already engaged a lawyer, should have indicated to Officer A there were clearly complex family dynamics at play. Both officers acknowledge Child X was not at risk of serious injury and the Family Court was the appropriate venue to consider Ms W's allegations and decide on care arrangements for Child X.
85. We accept without question that both Officers A and B were concerned for Child X's safety, which is commendable, and that some form of Police action was required to ensure he was safe. Both officers wanted to act to ensure the child was safe. However, using a PSO to remove Child X from Mr Y's care was not the appropriate action to take.
86. Both Police reviews into this instance concluded the use of a PSO in these circumstances was appropriate and reasonable. The National Family Harm Prevention Team review stated Police "*support caution*" when using a PSO in this manner to ensure that the action "*does not circumvent strict controls on child removals under the Oranga Tamariki Act*".
87. We understand this refers to the high threshold set by legislators which must be met in order to remove a child from their parent. By using a PSO to remove a child, Police are not required to meet this threshold, and their decision making is not subject to Court examination.
88. There is good reason for these strict controls on the removal of children, as these powers infringe on the rights of parents as well as the rights of children to be cared for by their parents.⁹
89. In addition, Police attending and removing a child from their home is likely to result in significant distress to the child, the parent or parents, and the wider family. In this case, we accept Mr Y's evidence that Child X was upset and confused when Police came to the home to remove him, unexpectedly. We also accept that this must have been a stressful and difficult experience for Mr Y and Ms Z.
90. In our assessment, the legislature did not intend that PSOs, which are discretionary and not subject to any Court oversight, should be used to uplift children.
91. The Court provides a safeguard to ensure that the power to remove a child from the care of their parent or guardian, (an intrusive power) is only exercised by Police in the most serious circumstances.
92. In our view, unless it is critically necessary to do so, Police should only act to remove a child from a parent if the Court has directed this is in the best interests of the child and issued a warrant for this purpose.

⁹ See UN Convention on the Rights of a Child, Article 9, that "a child shall not be separated from his or her parents against their will, except when [...] such separation is necessary for the best interests of the child". Additionally, Article 7 states the child has the right, as far as possible, to know and be cared for by his or her parents; and Article 18.1 includes the principle that parents/legal guardians have primary responsibility for the upbringing and development of the child.

What else could have been done to keep Child X safe?

93. In the Authority's view the correct approach in this case would have been for Police to:

- Advise Ms W that Police are taking her concerns seriously and need more evidence to substantiate her allegations to achieve the required thresholds for removing Child X from Mr Y's care.
- Advise Ms W to proceed with her application to seek – with every urgency - without notice orders from the Family Court (as she had already engaged a lawyer).
- Make an application for a Place of Safety warrant, if further evidence supported this.
- Only act to uplift the child if a Judge issued a warrant, or if more information made it clear that Child X was in circumstances that could cause immediate injury or death.
- File a Report of Concern.
- Complete a CPP report and notify both Oranga Tamariki and Police's Child Protection team.

FINDING ON ISSUE 2

The issue of the PSO and its use to remove Child X from Mr Y's home was neither lawful nor justified.

Recommendations:

94. We recommend that Police:

- 1) Create and deliver training to all staff on Police powers to uplift children, including all relevant law and policy.
- 2) Amend their Police Safety Order and Family Harm Policies to specifically state that Police Safety Orders should not be used to uplift children.
- 3) Remove the wrongly issued PSO from Mr Y's Police file and amend their records to reflect that the PSO should not have been issued to Mr Y, noting that any reference to a wrongly issued PSO may create difficulties for him in the future both in terms of any Family Court Proceedings and Police vetting checks.
- 4) Apologise to Mr Y for wrongly uplifting Child X, causing what the Authority understands to be considerable upset and distress to them both.

Police Response

94. Police do not accept that the issue of the PSO to Mr Y was unlawful. They say their internal review, supported by legal advice, found the issue of the PSO was consistent with the Family Violence Act 2018, based on the information available to the officers and their risk assessment.

For that reason, Police do not agree with our recommendation that they should apologise to Mr Y.

95. The Authority acknowledges Police's position; however, we remain of the view that the issue of a PSO in this case was unlawful and consider that the view of the law taken by Police is erroneous.
96. Police accept the officers could have completed further enquiries before issuing the PSO to Mr Y and that this case highlights the need for clearer guidance and caution where a PSO is used in circumstances which have the effect of altering a child's care arrangements.
97. Police accept that a PSO is not a mechanism to uplift a child or determine care arrangements. However, Police note (and the Authority accept) that in some circumstances the issue of a PSO may impact on care arrangements for a child. This should only occur where it is necessary to achieve a safe outcome for the child.

Subsequent Police Action

As a result of the Authority's recommendations, Police have completed, or will complete, the following actions:

98. Police have issued national guidance for staff reinforcing the need for caution when considering the use of a PSO in situations involving children and the importance of ensuring a PSO is used for its intended purpose, not as a mechanism to affect the removal of a child.
99. Police have agreed to update their PSO policy to make it a requirement for staff to consider alternative pathways to PSOs if similar scenarios arise. Such alternative pathways include engaging with Oranga Tamariki and/or exercising Police powers under the Oranga Tamariki Act. The Police will also require officers to record that they have considered and used these pathways.
100. Police have amended Mr Y's Police records to state that the PSO was "*issued in error*" and Police "*erred in law*". Mr Y's updated Police records include an explanation of why the PSO was used, and that it should not have been used for that purpose.
101. Police acknowledge that the situation was distressing for those involved. They will provide an explanation to Mr Y which recognises the impact of the incident and reflects their commitment to continuous improvement.



Judge Kenneth Johnston KC

Chair
Independent Police Conduct Authority

11 June 2026

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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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