



## The Authority's Findings

### **Issue 1: Were Officers A, B and C justified in using force against Mr Matue?**

Officers A and B were justified in using their Tasers against Mr Matue to defend themselves and their colleagues.

Although Officer A discharged his Taser multiple times during the interaction with Mr Matue, there were no less forceful means reasonably available to address the threat posed.

Officer C was justified in deploying pepper spray on two occasions and using the Police dog against Mr Matue. These actions were necessary to both overcome Mr Matue's resistance to arrest and to protect himself and his colleagues from harm.

### **Issue 2: Were Officers C and B justified in using force against Mr Matue in defence of the Police dog?**

Officers C and B were justified in using force against Mr Matue to counter his resistance to the police dog and to prevent injury to the dog.

### **Issue 3: Were Officers D, B and F justified in using force against Mr Matue?**

Officer D's use of force in punching Mr Matue three times in the head "*as hard as he could*" was unreasonable and not justified.

Officer D's first use of the "*fish-hook*" technique was justified under s48 of the Crimes Act 1961. However, his second use of the same technique was in different circumstances and not for the purpose of defending himself or others. The second use of the "*fish-hook*" technique was therefore not justified under s48.

Officer D was justified in acting in self-defence when he used force to stop Mr Matue biting him.

Officers B and F were justified in using force on Mr Matue to defend Officer D and to assist him to stop Mr Matue biting him.

### **Issue 4: Should Officer B and another officer have spoken to Mr Matue as they did?**

Statements made by Officer B and the unknown officer to Mr Matue were inappropriate and unprofessional.

### **Issue 5: Did Police fulfil their duty of care towards Mr Matue after his arrest?**

Officers discharged their duty of care towards Mr Matue, and the Authority acknowledges their efforts to care for and support Mr Matue prior to the arrival of medical assistance.

## Background

6. On 2 March 2025, Officer C, a Police dog handler, was working a late shift in Papakura. Officer C said he was aware of an intelligence report referring to a vehicle used in two aggravated robberies that occurred on 13 February and 1 March 2025, during which a firearm was used. He knew the identities of two suspects involved in the second aggravated robbery. He had conducted checks on his Police phone and found that both men had extensive criminal histories for violent offending and alerts for carrying firearms.
7. At around 2:15pm, Officer C observed the vehicle used in the aggravated robberies parked at a petrol station as he was driving along Great South Road in Papakura. He says he saw two men with the car “*who matched the general description of the suspects*”. Officer C proceeded to watch and then follow the vehicle. He reported the vehicle to the Police Emergency Communications Centre (‘North Comms’) and the Police helicopter (‘Eagle’) was called to assist with aerial surveillance. A Police officer inside Eagle was operating a camera and recording what was unfolding, while another officer provided updates over the Police radio.
8. Officer A, at Papakura Police Station, overheard Officer C’s call to North Comms and gathered his team to assist with tactical support. Officers A and B travelled together as one unit and Officers D and E travelled together as another.
9. Eagle followed the direction of the vehicle as it drove south on the Southern Motorway, then onto State Highway 2 and toward Ōrere Point. Eagle provided updates over the Police radio and three patrol cars followed the vehicle at a distance. Other officers attempted to stop the vehicle by deploying road spikes, but this was unsuccessful.
10. At 3:23pm, Eagle reported that the vehicle had driven onto the beach at Ōrere Point.
11. Officers D and E stopped at a bridge on the road to the beach to set up road spikes in case the vehicle turned around. In the meantime, Officers A, B and C followed the vehicle, arriving at the beach close behind it.
12. A short time later, Officers D and E were informed by Eagle that the car had stopped on the beach and that the passenger was threatening officers with what looked like a samurai sword. Officers D and E decided to retrieve the road spikes and move forward to the beach to assist.

## Analysis of the Issues

### ISSUE 1: WERE OFFICERS A, B AND C JUSTIFIED IN USING FORCE AGAINST MR MATUE?

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13. In this section, we describe Officers A, B and C’s uses of force against Mr Matue up to the point the Police dog was deployed and assess whether they were justified.

## Were Officers A and B justified in using their Tasers against Mr Matue?

### What happened?

14. Officers A and B say that, when they arrived at the beach, Officer C had just arrived and was removing the Police dog from his van. The vehicle they had been following was parked a short distance up the beach (around 30 metres in front of the Police dog van) and they saw two men get out of the vehicle. Officers A and C recognised the men as the suspects for the aggravated robbery. Mr Y exited the vehicle from the driver's side, and Mr Matue exited from the passenger's side. Mr Y walked around the front of the vehicle and stood next to the passenger side while Mr Matue walked toward the officers. Mr Matue was holding a metal pole in his hands and was swinging it from side to side.
15. Officers A, B and C stood in front of Mr Matue, who had moved to within about 15 metres of them. Officers A and B were armed with M4 rifles while Officer C was armed with a Glock pistol. The officers discussed how best to approach Mr Matue and decided to de-escalate their tactical response from firearms to less lethal options including pepper spray, Taser and the Police dog. Officers A, B and C then moved forward toward Mr Matue to effect his arrest.
16. Officers A, B and C called on Mr Matue to put down the pole, but Mr Matue continued to swing the metal pole around, challenging the officers and moving back and forth. Eagle (which was overhead) mistakenly reported that Mr Matue was in possession of a samurai sword and that he was performing a 'haka', specifically a 'peruperu' (a war dance), and preparing to confront the officers.
17. Officer C told Mr Matue and Mr Y that they were under arrest. Officers A, B and C believed that both men, having been involved in recent armed burglaries, might have access to firearms, either on them or near to hand in the car. Due to lack of radio reception at the beach, the officers' portable radios were not working and they could not call North Comms for assistance. Although Eagle was watching events and able to communicate with North Comms, the officers on the beach could not speak with or receive communications from Eagle. They were therefore unsure how far away help would be, or even if help was coming.
18. Officers A and B approached with their Tasers at the ready while Officer C was holding pepper spray in one hand and the dog's lead in the other. Mr Matue removed his t-shirt and held the metal pole like a baseball player preparing to swing.
19. As the three officers slowly walked forward towards Mr Matue, they called out to him to put down the metal pole, but he ignored their instructions. When they were within a few metres, Officers A and B readied their Tasers, while Officer C sprayed his pepper spray towards Mr Matue's face.
20. Officer A deployed his Taser and Mr Matue dropped the metal pole and fell to the ground onto his back (the time shown on the Eagle footage was 3.24pm). Officer C continued past Mr Matue with his dog to Mr Y, who, although angry, was compliant and laid face down. He remained on the ground until officers arrived to take him into custody.

21. Once the initial neuromuscular incapacitation (NMI) caused by the Taser subsided, Mr Matue sat up and grabbed the metal pole. Officer A reactivated the Taser. Mr Matue continued to resist its effects, attempting several times to stand up, keeping hold of the metal pole and trying to remove the Taser probes.
22. At one point when Mr Matue managed to get up onto his knees, Officer B also deployed her Taser, causing Mr Matue to again fall down to the ground on his back.
23. Officer A's Taser connection appeared to be the most effective of the two. Because Mr Matue continued to fight the effects of the NMI, Officer A continued to reactivate his Taser when needed until such time as Mr Matue was able to be restrained safely by other officers.

*Were Officers A and B legally justified in using force against Mr Matue?*

24. The officers stated that they deployed their Tasers to overcome Mr Matue's resistance to arrest, and in defence of themselves and their colleagues, given the threat posed by Mr Matue.
25. Section 39 of the Crimes Act 1961 provides that Police may use force to overcome someone's resistance to a lawful process, or an arrest. However, the legislation says that the force used must be the least violent option available.
26. Under section 39, the officers could potentially have delayed their response in an attempt to contain Mr Matue and negotiate with him, which would have been a less violent approach. However, as they explained, the threats of firearms and assault, together with the uncertainty of assistance arriving, made this approach unfeasible.
27. Although there is some cross-over between the justifications provided under sections 39 and 48 of the Crimes Act 1961, given the need continually to reactivate the Tasers, our view is that the officers were primarily responding to the threat posed by Mr Matue. Therefore, we have assessed their actions against section 48.
28. Section 48 of the Crimes Act 1961 states that all individuals, including Police officers, are justified in employing reasonable force under circumstances they perceive to exist, for the defence of themselves or others.
29. Under section 48, we must determine,
  - a) What were the circumstances as the officer believed them to be? (a subjective test);
  - b) Was the officer's use of force against Mr Matue for the purpose of defending himself/herself or another? (a subjective test);
  - c) Was the officer's use of force against Mr Matue reasonable in the circumstances as the officer believed them to be? (an objective test).

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

30. Officers A and B say that:

- Mr Matue had been involved in two recent aggravated burglaries in which he and Mr Y had been armed;
- Mr Matue was armed with a metal pole, which he was obviously intending to use as a weapon and was yelling aggressively;
- They believed Mr Matue might also have a firearm on him or close to hand in the car;
- Both Mr Matue and Mr Y had just fled from Police in their vehicle and were not safely contained. There were families at the beach and there was a concern the men could potentially harm others or attempt to steal a vehicle in order to escape;
- The officers' portable radios were not working and they could not call for assistance. They were unsure how far away help would be, or even if help was coming.

Was the use of force by Officers A and B for the purpose of defending themselves or others?

31. We accept that both Officers A and B used their Tasers to defend themselves and their colleagues (and also had in mind the possible risk to others in the vicinity).

Was the use of force against Mr Matue by Officers A and B reasonable in the circumstances as they believed them to be?

32. Officers A and B say that communication with Mr Matue was not working to deescalate the situation. He would not put down the metal pole despite being called on to do so and they were not able safely to effect his arrest until he did. Officer C's use of pepper spray from a distance had had little effect, if any. Tasers were the least forceful option available.
33. Even after being tasered multiple times and falling to the ground, Mr Matue continued to resist the effects, remaining incapacitated for only a very short time. The metal pole remained either in his hands or right next to him.
34. Mr Matue used the metal pole in a way that showed his intent to confront the officers and the officers believed he was capable of causing serious bodily harm or even death. Both officers assessed that Mr Matue was "assaultive". According to Police policy, 'assaultive' describes someone who displays intent to cause harm, through body language or physical action.
35. On this issue, the Crimes Act 1961 defines 'assault' as conduct that includes a person threatening to apply force to another person through any act or gesture. This definition applies when the person making the threat has or causes the other person reasonably to believe that they have the ability to carry out their intention. Based on these considerations, we conclude that Mr Matue's conduct, and specifically his gestures, credibly amounted to assaultive behaviour.

36. Officers cannot be expected to use empty-hand tactics against an individual armed with a weapon that poses a serious risk of bodily harm or death. Nor can they be expected to close the distance to engage such a person with a baton, as this would also expose them to that risk. Officer C had already attempted to use pepper spray from a distance, which did not appear to have affected Mr Matue.
37. The next level of non-lethal force available to Officers A and B was their Tasers. Tasers can be deployed from an optimal distance of 4.5 metres and up to approximately 7.6 metres. This option allowed officers to remain some distance from Mr Matue. They expected that once the Tasers took effect, they would be able to overpower Mr Matue.
38. In our view, using non-lethal force, such as a Taser, was a proportionate response to the considerable danger Mr Matue posed by confronting the officers with a metal pole. Therefore, we conclude that Officers A and B were legally justified in using their Tasers against Mr Matue under section 48 of the Crimes Act 1961.

#### *Were the Taser deployments consistent with Police policy?*

39. Police policy requires that for every Taser discharge “the operator’s PCA<sup>3</sup> must give rise to an honest belief that the subject poses a threat of imminent physical harm to any person”.
40. The Taser policy also provides that “Multiple and/or extended applications of the Taser against a subject should be avoided whenever possible. If unavoidable, each use must be necessary, proportionate, and therefore reasonable in the circumstances”.
41. The internationally recommended maximum application is three five second cycles. Officer A’s repeated activation of the Taser is outside of this. However, the threat posed by Mr Matue was ongoing and it appears that each application was prompted by an action from Mr Matue. This is corroborated by the Eagle footage showing Mr Matue continuously attempting to get up, attempting to remove Taser wires, regaining possession of the metal bar and verbally threatening officers. The effectiveness of the Tasers is limited and his aggression does not appear to be deterred.
42. Mr Matue remained an ongoing imminent threat of physical harm to the officers attempting to arrest him. Therefore, in our view, each use of Taser was necessary, proportionate to the ongoing threat and reasonable in the circumstances.

#### **Was Officer C’s use of the pepper spray justified?**

##### *What happened?*

43. Officer C used his pepper spray twice. The first time was during the initial approach towards Mr Matue by Officers A, B and C together. Due to the distance from which Officer C sprayed the pepper spray, there was no perceptible effect on Mr Matue.

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<sup>3</sup> PCA stands for Perceived Cumulative Assessment (the officer’s assessment and continuous reassessment of threat level during an incident).

44. While Officer C was dealing with Mr Y, he looked back and saw that Mr Matue, despite having been tasered a number of times, had regained hold of the metal pole and remained assaultive. Officer C considered Mr Matue to be a greater risk, so returned to assist Officers A and B. He approached Mr Matue from the rear, and re-pepper-sprayed him to try to overcome Mr Matue's continued resistance.
45. Again, the pepper spray had little, if any, impact on Mr Matue who simply "eyeballed" Officer C and continued trying to stand up.
46. Section 39 of the Crimes Act 1961 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*".
47. Under section 39, the Authority must consider:
- Did the officer genuinely believe that Mr Matue was using force to resist? (a subjective test)
  - If so, was it reasonable for the officer to conclude it was necessary to use force to overcome that resistance? (an objective test)
  - If so, was the officer's use of force to overcome that resistance reasonable? (an objective test)

*Did Officer C genuinely believe that the person was using force to resist?*

48. As described in paragraphs 32-34, Mr Matue was holding a metal pole and using it to confront Officers A, B and C and would not put it down despite being called on to do so. We accept that Officer C genuinely believed that Mr Matue was using force to resist arrest.

*Was it reasonable for Officer C to conclude it was necessary to use force to overcome that resistance?*

49. We accept that Officer C's conclusion that it was necessary to use force to overcome Mr Matue's continued resistance to arrest was a reasonable one.

*Was Officer C's use of force to overcome that resistance reasonable?*

50. We are satisfied that Officer C's use of pepper spray was a reasonable and proportionate response in the circumstances and that this relatively low level of force was justified under section 39 of the Crimes Act 1961.

**Was Officer C's use of the Police dog justified?**

*What happened?*

51. When the pepper spray had limited effect and Mr Matue remained assaultive, refusing to drop the metal pole, Officer C then deployed his Police dog, which bit down on Mr Matue's left arm.

52. Mr Matue dropped the metal pole and immediately rolled towards the dog, grabbing hold of it around the head and neck area and fighting to get it off him. Once the metal pole was dropped, Officer A quickly approached and attempted to assist Officer C with getting Mr Matue under control. Mr Matue fought back vigorously against being handcuffed, resulting in a prolonged struggle.
53. Sections 39 and 48 of the Crimes Act 1961 are outlined in paragraphs 25 to 29 above. Because we believe that Officer C was primarily responding to the threat posed by Mr Matue to his own and others' safety, we have assessed his actions against section 48.

*What did Officer C believe the circumstances to be?*

54. Officer C arrived on the scene just before Officers A and B. His understanding of the circumstances aligns with that of Officers A and B as outlined in paragraph 30. In addition, Officer C noted that the multiple Taser discharges by Officers A and B had had little effect and had been unsuccessful in disarming and gaining control of Mr Matue. Mr Matue remained in possession of the metal pole and remained an ongoing threat.
55. Officer C was aware of the need for officers to get close enough to Mr Matue to effect arrest without sustaining any harm. His decision to deploy the Police dog was to gain *"tactical advantage in controlling Matue and preventing him from using the metal bar against officers"*.

*Was the use of force by Officer C for the purpose of defending himself or others?*

56. We accept that Officer C's deployment of the Police dog was for the purposes of overcoming Mr Matue's continued resistance to arrest, as well as for self-defence and to protect his colleagues, given the threat Mr Matue posed.

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

57. Officer C said that Officers A and B had already tasered Mr Matue multiple times and he just kept getting up. *"Five seconds is over, he's straight back up into the fight..."*. He was aware that Mr Matue remained a threat to the officers present and that they needed to get him restrained. He also noted that, with Tasers not being very effective, there was a need to try something else.
58. Officer C said he believed that using the dog would provide a tactical advantage in controlling Mr Matue and prevent him from using the metal bar against the officers present. Also, while Mr Matue was focussed on the dog, the other officers could attempt to get him restrained and handcuffed.
59. Although deploying a Police dog is a significant use of force and can have serious effects, less forceful tactical options were not working to stop Mr Matue, and he needed to be stopped. Our assessment is that the use of the Police dog was reasonable in the circumstances.

## FINDINGS ON ISSUE 1

Officers A and B were justified in using their Tasers against Mr Matue to defend themselves and their colleagues.

Although Officer A discharged his Taser multiple times during the interaction, there were no less forceful means reasonably available to address the threat posed by Mr Matue.

Officer C was justified in deploying pepper spray on two occasions and using the Police dog against Mr Matue. These actions were necessary to both overcome Mr Matue's resistance to arrest and to protect himself and his colleagues from harm.

## ISSUE 2: WERE OFFICERS C AND B JUSTIFIED IN USING FORCE AGAINST MR MATUE IN DEFENCE OF THE POLICE DOG?

60. In this section we describe what happened when Officers C and B used force against Mr Matue in defence of the Police dog. We then assess whether the officers' response was justified.

### What happened?

61. When Officer C deployed the Police dog, Mr Matue dropped the metal pole and immediately rolled towards the dog, grabbing hold of it around the head and neck area, and applying pressure to the dog's throat. This appeared to cause the dog pain, and Officer C reacted by striking Mr Matue once in the face to "*distract him from his assault on the dog and allow me to pull his arms off the dog*". Officer B also reacted by delivering five or six kicks to Mr Matue's back and the back of his arm as a distraction technique to try and get Mr Matue to break his hold.
62. Officer B claimed that this use of force was justified under s48 of the Crimes Act 1961 as she was acting in the defence of the Police dog. She said she considers the dog to be on the same footing as a Police employee.
63. Section 48 of the Crimes Act 1961 covers self-defence and defence of others and is discussed in paragraphs 28 and 29 above. Police dogs are considered a tactical option and seen legally as Police property rather than members of the Police team. As such, section 48 cannot be used to justify using force in this instance.
64. However, there is a defence available under section 41 of the Crimes Act 1961. Section 41 provides that any person is justified in using "*such force as may be reasonably necessary*" to prevent the commission of an offence likely to cause immediate and serious injury to the person or their property, or to prevent any act being done which they reasonably believe would, if committed, amount to such an offence.<sup>4</sup>

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<sup>4</sup> This section also relates to preventing the commission of suicide.

*Were Officers B and C preventing the commission of an offence likely to cause immediate and serious injury to their property?*

65. We accept that Officers B and C's use of force was for the purpose of preventing an offence against property as it is an offence to kill or injure a Police dog and the dog is considered Police property.<sup>5</sup>

*Was the force used by Officers B and C reasonably necessary?*

66. Mr Matue needed to be stopped from continuing to apply pressure to the dog's throat as it was likely to cause immediate and serious injury to the dog. However, the proximity of Officers A, B and C as well as the dog meant that some types of force such as pepper spray, batons and Tasers could not be used.

67. In our assessment, the actions of Officers B and C were a measured and proportionate use of force in the circumstances and acted as a sufficient distraction to allow officers to gain hold of Mr Matue's arm and pull it away from the dog.

68. We therefore conclude that the force used was justified under section 41 of the Crimes Act 1961.

#### FINDING ON ISSUE 2:

Officers C and B were justified in using force against Mr Matue to counter his resistance to the Police dog and to prevent injury to the dog.

#### ISSUE 3: WERE OFFICERS D, B AND F JUSTIFIED IN USING FORCE AGAINST MR MATUE?

##### What happened?

69. When Officers D and E joined Officers A, B and C on the beach, they were first instructed to arrest and handcuff Mr Y. Officer D was armed with an M4 rifle while Officer E was armed with a Glock pistol. Mr Y was compliant, lying on the ground with his arms outstretched. Officer D covered Officer E while he handcuffed Mr Y.

70. Officer D states that when he arrived, he believed that both offenders were dangerous and may have access to firearms. This was based on his knowledge of the offenders, their histories of offending and their recent actions while fleeing from Police.

71. Officer D says that while he and Officer E were arresting Mr Y, he could see that officers were struggling to restrain Mr Matue. So, as soon as Mr Y was handcuffed, he went to assist with getting Mr Matue under control so that he could also be handcuffed.

72. At the time, he says Officer A was holding Mr Matue's right arm, Officer B was holding Mr Matue's left lower arm, and Officer C was holding Mr Matue's left shoulder, with the Police dog

<sup>5</sup> Section 53 of the Policing Act 2008.

biting his left upper arm. However, Officer D told us that, even with that amount of force being used, the officers still couldn't seem to subdue Mr Matue. He said:

*"I got there and he was trying to fight three officers and a dog and had been Tasered and sprayed...if that doesn't tell you enough about why he – about his capacity to resist, he was getting up off the ground as I was getting there. I couldn't have just stood there."*

73. He had also been told by Eagle that Mr Matue had a samurai sword, but he could not see where it was, and he feared for the safety of himself and the officers dealing with Mr Matue if he was able to get up and use that weapon.
74. He went to assist and immediately punched Mr Matue three times in the head. When asked, he said he punched him as hard as he could in order to distract him enough that the other officers could restrain him.
75. Mr Matue continued to struggle with the officers and Officer D took charge of holding Mr Matue's head to prevent him rolling to his side in an attempt to get up. He says that he knows through his training that *"controlling someone's head is the best way to control their body"*. This is because *"if he turns his head, his shoulders will turn and then he'd be able to roll and get up"*.
76. At this time, Officer D decided to use a *"fish-hook technique"* on Mr Matue to achieve pain compliance. This was done by hooking his finger into Mr Matue's mouth, pulling his mouth to one side and pressing his knuckle into Mr Matue's cheekbone. This technique is something learned in martial arts training and is not something trained by Police.
77. Two additional officers, Officers F and G, arrived around that time and took custody of Mr Y. This freed up Officer E who moved to assist with restraining Mr Matue. He helped to pull Mr Matue's left arm from under his body and provided Officer C with the opportunity to remove the Police dog while other officers managed to handcuff Mr Matue. Mr Matue was then turned onto his right side, with Officer D kneeling beside Mr Matue's upper back and holding his head and Officer E holding his legs down. Officer B was standing in front of Mr Matue.
78. Officer D says that, despite being handcuffed, Mr Matue continued to struggle and he applied a *"fish-hook"* for the second time, again to achieve pain compliance. This time, however, in response, Mr Matue bit down hard on Officer D's finger, severely injuring it and causing the officer to yell out in pain.
79. Officer D immediately reacted by hitting Mr Matue in the face using a hammer punch and used his Taser to contact stun him three times in rapid succession.<sup>6</sup> When those actions had little effect, he clawed at Mr Matue's face to pull his head back enough to remove his finger. He believes Mr Matue was biting his finger for approximately 20-30 seconds. The bite is subsequently described by Police as a *"near amputation"*.

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<sup>6</sup> A contact stun is where the Taser is held against a person's body, delivering an electric shock without firing the probes.

80. When Officer D yelled out in pain and began hitting and tasing Mr Matue, Officer B delivered four quick kicks to Mr Matue's upper torso. Additionally, Officer F came to assist and punched Mr Matue twice in the head.

### Was Officer D justified in using force against Mr Matue?

#### *Initially striking Mr Matue three times to the head*

81. Officer D says when he struck Mr Matue three times to the head "*as hard as he could*", he did this in order to distract him enough so that the other officers could restrain him. Section 39 of the Crimes Act 1961 empowers Police to use "*such force as may be necessary*" to overcome any force used in resisting an arrest. We have therefore assessed Officer D's actions under that section. The requirements of section 39 are outlined in paragraphs 46 and 47 above.

#### Did Officer D genuinely believe that Mr Matue was using force to resist?

82. Officer D outlines the circumstances as he believed them to be in paragraphs 70-73 above.
- Mr Matue was a powerful man who was continuing to struggle with the officers and Officer D believed he was pushing himself up off the ground despite being held by three officers and a Police dog and despite having been tasered and pepper sprayed. Officer D had heard over the radio that Mr Matue had been tasered and could smell pepper spray in the air.
  - Officer A had managed to get handcuffs on one of Mr Matue's wrists but Officer B was struggling to pull Mr Matue's other arm behind his back in order to complete the handcuffing and arrest process.
  - Mr Matue was assaultive and was believed to have access to a weapon.

#### Was it reasonable for Officer D to conclude it was necessary to use force to overcome Mr Matue's resistance?

83. We accept that Officer D struck Mr Matue in an attempt to overcome Mr Matue's resistance to the officers' attempts to arrest him.

#### Was Officer D's use of force to overcome Mr Matue's resistance necessary?

84. As noted above in paragraph 46, section 39 of the Crimes Act defines "necessary" as "reasonable" and "proportionate to the degree of force being used to resist". At the time that Officer D struck Mr Matue three times to the head, Eagle footage shows that Mr Matue was continuing to resist the two officers trying to handcuff him and that the officers together with the Police dog (held by a third officer), were struggling to restrain him.
85. In our assessment, however, there were a number of other ways Officer D could have assisted the other officers to handcuff Mr Matue without the need to strike Mr Matue in the head. For example, Officer D could have punched Mr Matue once as a distraction strike. He also could have assisted the other officers as Officer E later did, by pulling Mr Matue's arm round behind

his back or adding his weight to help subdue Mr Matue by holding down his legs to prevent him getting to his feet.

86. While we accept that Officer D had perceived a need to assist the officers with handcuffing Mr Matue, and believed that additional force was required, we do not accept that the level of force he used—specifically, punching Mr Matue three times in the head “*as hard as he could*” — was necessary or reasonable under the circumstances.

#### *First use of “fish hook” technique on Mr Matue*

87. Initially we believed Officer D’s first use of the “*fish-hook*” technique was an attempt to use pain compliance to assist the other officers with handcuffing and completing the arrest process. We therefore considered justification under s39 Crimes Act 1961. However, Officer D says in his Police interview that he used this technique both times to stop Mr Matue from gaining his feet and harming the officers who were present. We have therefore assessed both uses of the “*fish-hook*” technique under section 48 of the Crimes Act 1961 as being in defence of himself and other officers. The requirements of section 48 are outlined in paragraphs 28 and 29 above.

#### *What were the circumstances as Officer D believed them to be?*

88. Within a few minutes of striking Mr Matue three times to the head as discussed above, Officer D applied the “*fish-hook*” technique to Mr Matue for the first time. The circumstances as Officer D believed them to be are therefore the same circumstances noted above in paragraphs 70-73 and 82.
89. Officer D states that when he initially used the “*fish-hook*” technique, Mr Matue was not yet handcuffed and was continuing to resist the officers trying to handcuff him. This is also supported by Eagle footage. Officer D noted: “*The whole left side of his body was still fighting and moving and attempting to get up*”. He believed Mr Matue “*could still be assaultive as I believe he could headbutt us, bite, kick or spit at us*”.
90. Officer D also states his intention was “*to use the fish-hook to gain pain compliance and prevent the male being able to turn his head, get up and physically hurt us*”.

#### *Was Officer D’s use of force in defence of himself or others?*

91. We accept that Officer D used the “*fish-hook*” technique as a method of pain compliance to prevent Mr Matue from getting to his feet and harming the officers present.

#### *Was Officer D’s use of force against Mr Matue reasonable in the circumstances as he believed them to be?*

92. The “*fish-hook*” technique is not a technique taught by Police and does not qualify as an “Empty Hand Technique” within Police policy. Also, as noted above, it is our view that there were other more compliant methods of force available to Officer D that could possibly be used to subdue Mr Matue and prevent him getting to his feet.
93. However, under section 48, we must assess the reasonableness of Officer D’s actions based on his perception of the circumstances at the time the force was used. Given Officer D’s description

of all the circumstances leading up to that point, we are satisfied that, when he first applied the “fish-hook” technique to Mr Matue, Officer D genuinely believed that Mr Matue still had the potential to get free of the officers struggling with him and that he posed a risk of harm to all officers present.

94. We have therefore concluded that Officer D’s initial use of the “fish-hook” technique for pain compliance was a proportionate response in the circumstances and justified under section 48 of the Crimes Act.

### *Second use of the “fish-hook” technique*

#### What were the circumstances as Officer D believed them to be?

95. At the time Officer D used the “fish-hook” technique a second time for pain compliance, Mr Matue had been secured in handcuffs and rolled onto his side in the recovery position. Officer D was controlling Mr Matue’s head and neck, Officer E was controlling his feet and lower legs and Officer B was standing in front of him.
96. Officer D told us that, despite being handcuffed, Mr Matue continued to struggle against his restraints. However, while we accept that Officer D may have earlier believed there was a risk that Mr Matue could get free of the officers and harm them, we do not accept that he could have had that belief at the time he used the “fish-hook” technique for the second time. Officer D was in a position where he knew that Mr Matue was handcuffed as well as being restrained and under the control of himself and two other officers. There were also other officers nearby who could have assisted if needed. At the time of this use of force, we do not accept that it was credible that Officer D believed there was any real risk of Mr Matue continuing to pose a threat to himself or the other officers.

#### Was Officer D’s use of force in defence of himself or others?

97. In our assessment, at this time, Mr Matue had little to no opportunity to be assaultive. Rather, he was restrained, but continuing to be actively resistant. Officer D’s use of the “fish-hook” technique was purely for pain compliance and not in defence of himself or others.

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

98. Because we have found that Officer D’s use of force in this instance was not for the purpose of defending himself or others, we do not need to consider the reasonableness of that force. However, even if he had been using that technique in order to defend himself or others, we would find that this use of force was not reasonable in the circumstances as he described.

### *Use of hammer punches and Taser on Mr Matue*

#### What were the circumstances as Officer D believed them to be?

99. Officer D outlines the circumstances as he believed them to be in paragraphs 78 and 79 above.

Was Officer D's use of force in defence of himself or others?

100. We accept that Officer D was reacting in self-defence when he used hammer punches and his Taser in order to stop Mr Matue from biting down on his finger.

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

101. Mr Matue had bitten down on Officer D's finger, severely injuring it and causing Officer D to yell out in pain. He believes Mr Matue was biting his finger for approximately 20-30 seconds. The bite is subsequently described by Police as a "near amputation".
102. As noted above in paragraph 92, the "fish-hook" is not a technique taught by Police. Police training does not advocate for any tactic that involves placing fingers or anything inside the mouth of an offender. Such action is not only highly intrusive, but it also presents, more importantly, a risk of considerable injury to the officer should an offender bite (as occurred in this instance).
103. However, at this time, these actions by Officer D appear to be instinctive and were necessary to gain the release of his finger and to prevent further injury to himself. Despite the bite resulting from Officer D's unreasonable use of the "fish-hook" technique, we accept that Officer D was nonetheless entitled to use reasonable force to defend himself from injury. In our assessment, the use of hammer punches and Taser by Officer D were reasonable and justified in the circumstances.

**Were Officers B and F justified in using force against Mr Matue?**

104. As noted above in paragraph 80, when Officer D yelled out in pain and began hitting and tasing Mr Matue, Officer B delivered four quick kicks to Mr Matue's upper torso and Officer F came to assist and punched Mr Matue twice in the head.
105. Officers B and F say they were acting in defence of Officer D when they kicked and punched Mr Matue in order to get him to stop biting Officer D's finger. We have therefore assessed their actions under section 48 of the Crimes Act 1961. The requirements of section 48 are outlined in paragraphs 28 and 29 above.

What were the circumstances as Officers B and F believed them to be?

106. Officer B says that after officers managed to restrain and handcuff Mr Matue, they positioned him on his side. He continued to kick his legs around and move aggressively on the rocks while Officer B was trying to check whether the Taser probes were still connected. At the time, Officer D was holding Mr Matue's head and Officer E was holding his torso and leg area. Moments later Officer B heard a scream from Officer D and noticed that Mr Matue had bitten down on Officer D's finger.
107. Officer B says that Officer D was in a lot of pain and he was yelling out and seeking assistance from other officers as Mr Matue would not let go. Officer B's hands were occupied with Tasers and a rifle at the time. She states: "I kicked the male offender in his torso area approximately 3-

*4 times in an attempt to cause him discomfort whereby hoping he would release Constable D's fingers from his mouth".*

108. Officer F says he heard Officer D call out "my finger" and when he looked down he could see that Mr Matue was biting down on Officer D's finger. He immediately went over to assist, punching Mr Matue twice in quick succession to the jaw. He states: "I struck the male in the jaw area in order to get him to open his mouth and release Constable D's finger".
109. Officer D was sustaining an immediate, severe, physical injury to his hand. It is believed that the bite lasted for approximately 20-30 seconds. Officer B says that when Mr Matue did let go of the finger, there was a lot of blood in and around Mr Matue's mouth. Had Mr Matue not been forced to let go of Officer D's finger, there was an imminent threat of further injury.

Was the use of force by Officers B and F in defence of themselves or others?

110. We accept that Officers B and F were acting in defence of Officer D.

Was the use of force by Officers B and F against Mr Matue reasonable in the circumstances as they believed them to be?

111. This was a situation involving immediate physical harm. Officers B and F's use of kicks and punches were lower level uses of force and were purely to assist Officer D and prevent any further injury to Officer D's hand.
112. We accept that the force used by Officers B and F was proportionate and reasonable in the circumstances. We therefore conclude that the force was justified under section 48 Crimes Act 1961.

### FINDINGS ON ISSUE 3

Officer D's use of force in punching Mr Matue three times in the head "as hard as he could" was unreasonable and not justified.

Officer D's first use of the "fish-hook" technique was justified under s48 of the Crimes Act 1961. However, his second use of the same technique was in different circumstances and not for the purpose of defending himself or others. The second use of the "fish-hook" technique was therefore not justified under s48.

Officer D was justified in acting in self-defence when he used force to stop Mr Matue biting him.

Officers B and F were justified in using force on Mr Matue to defend Officer D and to assist him to stop Mr Matue biting him.

## ISSUE 4: SHOULD OFFICER B AND ANOTHER OFFICER HAVE SPOKEN TO MR MATUE AS THEY DID?

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113. While officers were struggling to arrest a resistant Mr Matue, two officers can be overheard making comments directed at Mr Matue:
- Officer B was heard in Taser footage saying: *“Fucken give me a reason cunt, I fucken dare you. Give me a fucken good reason. You’re fucken lucky Eagle is above, you piece of shit (pause) You’re fucken lucky”*.
  - A male officer can also be heard in the Taser footage saying: *“You fat cunt (indecipherable) back in the water and just drown you, you fucken idiot”*.
114. We asked Officer B about her comment. Officer B says she was angry at Mr Matue for biting Officer D’s finger and concerned that, depending on the amount of damage inflicted, it could have long lasting repercussions for Officer D. She says it was a high pressure situation and she was devastated for her colleague. She acknowledges the comment was not appropriate.
115. A review of the eagle footage from the relevant time shows that five male officers were present at the time the male officer made his comment. We were unable to determine who made the second remark, but we view the language used as unprofessional and extremely disappointing.
116. Both statements were inappropriate and unprofessional.

### FINDING ON ISSUE 4

Statements made by Officer B and the unknown officer to Mr Matue were inappropriate and unprofessional.

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## ISSUE 5: DID POLICE FULFIL THEIR DUTY OF CARE TOWARDS MR MATUE AFTER HIS ARREST?

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117. For the duration of a person’s time in Police custody, Police have a legal duty to take all reasonable steps to ensure their care, safety and wellbeing as set out in section 151 of the Crimes Act 1961.<sup>7</sup>
118. According to the ‘People in Police Custody’ policy:

*“Where a Police employee has care or charge of a person in detention... the Police employee is under a legal duty of care to provide that person with necessities and to take reasonable steps to protect that person from injury (including self-harm or harm from others).”*

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<sup>7</sup> In accordance with section 151 of the Crimes Act 1961, *“Everyone who has actual care or charge of a person who is a vulnerable adult and who is unable to provide himself or herself with necessities is under a legal duty... to provide that person with necessities; and... to take reasonable steps to protect that person from injury.”*

119. Police responsibility for care, safety, and security starts from the time a person is arrested and does not end until they are released or transferred into the care of another agency.
120. Although having used significant force to control Mr Matue and effect his arrest, officers were nonetheless mindful of their duty of care.
121. The Eagle footage shows that, at 3.28pm, Mr Matue was handcuffed and laid on his side in the recovery position. Officers said they did this because:
- a) they were concerned about positional asphyxia;
  - b) they were concerned he had taken drugs and could vomit; and
  - c) they believed he would be more comfortable as his hands were handcuffed behind him.
122. At 3.29pm, Comms notified Ambulance Comms that one person had been tasered, for their information at that stage.
123. At 3.30pm, Mr Matue bit Officer D's finger (refer paragraph 78). Shortly afterwards, the footage shows an officer bringing a first aid kit to Mr Matue and Officer D. Eagle advised Comms that a first aid kit had been brought out. Comms requested an ambulance.
124. At 3.34pm, the footage shows a bandage being applied, followed by a tourniquet to Mr Matue's left arm. Mr Matue was lying on his right side at a 45-degree angle.
125. At 3:42pm, the Police shift commander, Officer H, arrived. He says Mr Matue was lying on his side, was very vocal, and showed no signs of distress. Officer H was aware that an ambulance was on its way to check Mr Matue. He then made several phone calls.
126. Mr Matue began to complain of being thirsty. Officers got Mr Matue to his feet and walked him over to a shaded area. Officer B held out a bottle of water for Mr Matue to drink from and also wiped water over his face to remove some of the pepper spray residue.
127. Officer H says he completed his calls and found that staff had moved Mr Matue. He says: *"I noticed Mr Matue was a lot quieter, and his breathing was more shallow. He was lying on the ground and staff had him in the recovery position"*. He asked Comms to find out from Ambulance Comms whether a first responder was nearby, as Mr Matue was deteriorating. Shortly afterwards, Comms advised that a first responder was on their way and would arrive in a few minutes.
128. Mr Matue became less talkative, and his speech became slurred. A few minutes after that he stopped breathing. An officer inserted a nasopharyngeal airway (breathing tube) in Mr Matue's nostril in an effort to bypass any upper airway obstruction and to prevent his tongue falling backwards. This enabled Mr Matue to begin breathing again. Officer H retrieved a defibrillator from his patrol car in case Mr Matue declined further.
129. Shortly thereafter, Mr Matue stopped breathing, became unconscious and unresponsive. He was quickly unhandcuffed and officers began Cardiopulmonary Resuscitation ('CPR'). The

defibrillator was also applied to Mr Matue, but it recommended not shocking and that CPR should continue. Officers continued to apply CPR, and when the first responders arrived, they were relieved by them.

130. A few minutes later, when ambulance staff arrived, Mr Matue was supplied directly with oxygen. They also attached an automatic CPR machine and, at this stage, officers stopped assisting. All of these attempts proved to be unsuccessful and Mr Matue did not regain consciousness.
131. It was later determined that Mr Matue had died from methamphetamine intoxication from swallowing a large amount of methamphetamine. He was also found to have methylenedioxymethamphetamine (MDMA), cannabis and alcohol in his bloodstream.
132. We considered whether Police should have taken Mr Matue directly to hospital. Given his behaviour, we do not believe that this would have been a safe option, and once he began to deteriorate, the ambulance was closer to them.

#### FINDING ON ISSUE 5

Officers discharged their duty of care towards Mr Matue, and the Authority acknowledges their efforts to care for and support Mr Matue prior to the arrival of medical assistance.



**Judge Kenneth Johnston KC**

Chair  
Independent Police Conduct Authority

7 July 2026

IPCA: 25-26786

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## About the Authority

### WHO IS THE INDEPENDENT POLICE CONDUCT AUTHORITY?

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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?

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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

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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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