



**IPCA**

Independent Police  
Conduct Authority

Mana Whanonga Pirihiimana Motuhake

# Use of force after a pursuit through Foxton justified

## Summary of the Incident

1. On the evening of 14 February 2019, Police arrested a man (Mr X) following a pursuit that concluded near Foxton. Mr X punched Officer A in the jaw when Officer A approached him in the driver's seat of the fleeing vehicle.
2. Mr X then grabbed Officer A's clothing and pulled him towards the car. Officer A responded by attempting to punch Mr X.
3. Two officers who witnessed the arrest later raised concerns about Officer A's use of force once Mr X had been removed from the car:
  - The officers said Officer A pressed his expandable baton into Mr X's neck;
  - One of these officers also said Officer A put his knee on Mr X's back and pushed Mr X's head into the ground with his hand.
4. Police notified the Authority of these concerns, and an independent investigation was commenced.

## Issue examined by the Authority

Did Officer A use appropriate force when arresting Mr X?

## The Authority's Findings

5. The Authority determined:
  - 1) Officer A was justified in punching Mr X to overcome the force he used in resisting arrest.
  - 2) Officer A did not press his baton into Mr X's neck, force his knee down on Mr X's back or push Mr X's head into the ground.

## Analysis of the Issue

### DID OFFICER A USE APPROPRIATE FORCE WHEN ARRESTING MR X?

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6. The Authority considered four alleged uses of force by Officer A on Mr X during the incident.
  - a) Attempting to punch Mr X in the face;
  - b) Pressing his baton into Mr X's neck;
  - c) Dropping his knee into Mr X's back; and
  - d) Pushing his head down with his hand.

### Was it reasonable for Officer A to consider Mr X's actions at the conclusion of the pursuit assaultive?

7. At 7.27pm on 14 February 2019 Officer B was driving on State Highway 1 north of Foxton. He recorded Mr X travelling south at 113kph in a 100kph zone and signalled for him to stop. Mr X failed to do so. Officer B commenced a pursuit.
8. Two further patrol cars also joined the pursuit. Officers C and D were in one, Officers E and F in the other. Mr X adhered to the speed limit following the commencement of the pursuit.
9. The officers who took part in the pursuit considered Mr X's driving to be extremely unusual for a fleeing driver. After Officer B began pursuing him, Mr X slowed down and adhered to speed limits through Foxton. He was not driving erratically but refused to stop for Police.
10. Officer B told the Authority he *"got the sense that something wasn't right"*, Mr X was staring straight ahead, and it appeared he did not want to acknowledge that Police were there. Officer B believed it was clear Mr X was making the choice not to stop, and at one point he overtook Officer's C and D's police car, which was stationary in the southbound lane with its red and blue lights on.
11. Officer F described the pursuit as *"unusual"*. Officer D said Mr X was going under the speed limit which was *"quite bizarre for a fleeing vehicle"*.
12. Officers C and E believed Mr X would have known Police were trying to stop him. Ultimately, three Police cars were pursuing him with lights and sirens activated.

13. Mr X failed to stop and continued through Foxton.
14. Officer A parked his patrol car on the grass verge next to the northbound lane of State Highway 1 and stopped traffic in both lanes south of Foxton.
15. Mr X came to the tail end of the stationary southbound traffic. He then pulled across the centre line into the northbound lane.
16. Mr X's speed as he crossed the centre line is disputed but was somewhere between 30 -70 kph.
17. Standing behind his patrol car, Officer A threw the road spikes onto the road as Mr X crossed the centreline and approached his position. Mr X's car mounted the grass verge and stopped in front of Officer A's patrol car.

#### *Mr X's account*

18. Mr X did not see the road spikes. He told the Authority he was travelling at 30-40 kph. He said he came to a "gentle stop" and the patrol car was between Officer A and his car at all times before he stopped. He did so as there was limited parking on the left-hand side of the road as a number of cars were stationary in the southbound lane. He thought at this stage it would be prudent to check whether Police were pursuing him, rather than someone else.

#### *Officer A's account*

19. Officer A believed Mr X was driving at about 70 kph as he crossed the centreline. He also believed it was Mr X's intention to continue driving through the stationary traffic when he initiated this manoeuvre.
20. He described Mr X's manoeuvre as "deliberate" and "sudden". Mr X was headed directly towards his car, so he moved back as he anticipated it was going to be struck.
21. At this point he believed Mr X's actions were 'assaultive', in that he intended to cause harm.<sup>1</sup> He said this was based on Mr X "mirroring" his own movements with his car and (what he considered to be) Mr X's high speed. He considered the risk escalated as Mr X's car mounted the shoulder of the road.

#### *The other officer's accounts*

22. Officers C, D and F described Mr X as driving at low speed as he crossed the centre line.
23. Officer B had stopped on the left-hand side of the road. He described that Mr X initially came to a stop behind traffic heading south, then suddenly crossed the centre line across the northbound lane and came nose to nose with Officer A's patrol car. Mr X had no reason to cross the centre line and it was clear Police were trying to stop him. Officer B was very concerned Mr X was going to "ram" Officer A's car.

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<sup>1</sup> According to Police policy, 'assaultive' means someone who displays intent to cause harm, through body language or physical action.

24. Officer E was on foot and moving towards Officer A as Mr X approached and was concerned Mr X was going to run Officer A over.

#### *Assessment of the evidence*

25. The accounts from the officers who pursued Mr X illustrate that Mr X's driving was extremely unusual for a fleeing driver. Mr X refused to make eye contact, adhered to the speed limit and was not engaging in tactics that would normally result in abandonment of a pursuit. He appeared either completely ignorant of the fact that Police were trying to stop him, or he was aware but refused to acknowledge their presence. It is reasonable this would have raised concerns as to Mr X's state of mind and led to the officers continuing the pursuit.
26. Based on Officer A's observations, outlined above at 19 – 22, the Authority finds it was reasonable for Officer A to believe that when Mr X crossed the centre line into the northbound lane he was attempting to evade Police and he (Officer A) was at risk of injury as Mr X was aiming his car at Officer A, or his patrol car which he was using as cover.

#### **Was Officer A justified in attempting to punch Mr X in his car?**

27. Officer A extended his baton and then approached Mr X's car. There are several different accounts of his demeanour at the time.
28. In his Police statement, Mr X stated Officer A came "*running*" towards him with his baton raised at chest level. He said Officer A was yelling and accusing Mr X of trying to run him over. Mr X told the Authority he looked "*really angry*".
29. Officer C said the baton was extended and raised to an "*aggressive position*" just above Officer A's shoulder. Officer F recalled Officer A was "*agitated*" and "*amped*". He said Officer A was quite loud, and although he could not recall specifically what Officer A was saying, there "*was probably a bit of swearing in it*".
30. In contrast, Officer B said Officer A was giving clear, loud, verbal commands to Mr X. Officer E also said Officer A was assertively "*yelling*" for Mr X to stop. She did not recall him carrying a baton.
31. Officer A told the Authority he drew his baton and "*extended my right arm fully, the upwards inertia creates the baton to extend and it locks into shape*". He said he did this to ensure Mr X knew he was there and wanted him to stop. He then lowered the baton over his right shoulder, so it was ready to use. He raised his left hand and yelled at Mr X to stop.
32. What occurred once Officer A reached Mr X's door is disputed.

#### *Mr X's account*

33. Mr X told the Authority he fully opened his door (as he was going to get out), released his seat belt and turned the car off. Mr X then stayed in the car as he was worried Officer A was going to strike him with his baton.

34. Officer A reached in and grabbed him. He tried to fend Officer A off and grabbed Officer A's clothing near his neckline with his right hand to *"hold him off"*. His left hand was on the steering wheel. During the interaction Officer A yelled at him twice to let go of his shirt.
35. Mr X said Officer A punched him in the head with a closed fist not long after he grabbed Officer A's shirt. Officer A had been holding his baton in his right hand but was not holding it when he punched Mr X. Mr X described the punch as reasonably hard but said it did not have any effect on him due to his adrenaline.
36. In his statement to Police, Mr X said he was not putting up a fight and he feared for his safety. However, Mr X told the Authority he was resisting while he was in the car.

#### *Officer A's account*

37. Officer A said Mr X did not open his door or turn off his engine. He instructed Mr X to turn the engine off, but he did not respond. He believes he told Mr X he was under arrest. At this point his baton was still extended.
38. Mr X did not respond, Officer A said he stepped forward and opened his driver's door. He took two steps back, told Mr X he was under arrest and to exit the car onto the ground. Mr X continued to look ahead and repeated: *"No, I wasn't speeding"*.
39. As Mr X was not presenting as assaultive and was not capable of using the vehicle as a weapon at that time, Officer A secured his baton through the belt loops at the back of the body armour he was wearing.
40. As he removed Mr X's car keys from the ignition Officer A saw a claw hammer in the footwell of the driver's seat. This caused him to believe the risk Mr X posed had escalated as the hammer could be used as a weapon.
41. Officer A placed his hand on Mr X's right wrist on the steering wheel, told him he was under arrest and to exit the car.
42. As Officer A placed his hand on Mr X's wrist, Mr X turned in his seat and punched Officer A in the chin with his left fist. Officer A let go and tried to bring his hands up to cover his face. Mr X turned and grabbed the top of Officer A's body armour with his right hand, pulling him forward with his full weight so the roof of the car was pressing into Officer A's neck, as his head was outside the car. This made it difficult for Officer A to breathe.
43. Officer A attempted to respond to Mr X's punch by swinging his right hand to punch Mr X. His punch struck the side of Mr X's left arm, slipped down, and hit the steering wheel/dashboard area.

44. Officer A said he had considered that:
- a) He was unable to deploy pepper spray as there was a passenger in the car who would have been subject to cross-contamination;
  - b) He was unable to Taser Mr X as he did not have a clear view of him.
45. Officer A was not confident he could let go of the car with both hands to access his pepper spray or Taser as he would have been unable to protect his windpipe.
46. Officer A said he brought his hand up to the pillar of the car and tried to push backwards to escape Mr X's grip. Officers D and C then arrived at the driver's door to help with the arrest.

#### *Ms Y's account*

47. Ms Y, Mr X's front-seat passenger, stated Officer A: "...pulled the driver's door open, the Policeman was yelling, I felt he was almost screaming. His face was contorted, his behaviour seemed out of control...". Ms Y said Mr X was saying "give me a chance to get out" and he had done nothing wrong.
48. She stated Officer A was trying to pull Mr X out, but his seatbelt was still on. This is inconsistent with the versions of events Mr X and Officer A provided. They both refer to Mr X's seatbelt having been removed prior to Officer A reaching the car.
49. Ms Y did not refer to any punches being thrown by Mr X or Officer A.

#### *The other officers' accounts*

50. At the time of the altercation, Officers E and F were approaching the front of Mr X's car.
51. Officer F described Officer A as "very amped" and said Mr X was non-compliant, "uncooperative" and "belligerent". He said Officer A's level of animation grew and he was yelling loudly. He did not see anything in Officer A's hand or witness any punches and believed Officer A's hands were in the car.
52. Officer E was walking towards Mr X's front passenger's door and said her view of Mr X and Officer A through the car's windscreen was unobstructed. She then saw Mr X punch Officer A, grab him by his clothing and pull him towards the car. She also saw Officer A respond by punching Mr X.
53. Officer F was concerned Officer A was intent on removing Mr X from the car quickly. He did not think there was any risk in Police taking their time in getting Mr X out.

54. Officer D was approaching from the back of Mr X's car, approximately five metres away. He did not see Mr X punch Officer A, but saw Officer A's arm go through the window in a punching motion towards Mr X. Officer D thought Mr X was not being assaultive and therefore Officer A was not justified in punching him. According to Officer D, Mr X only grabbed Officer A's clothing after Officer A attempted to punch Mr X.
55. Officer D stated that Mr X had his arm out and was hanging onto Officer A and had pulled him up against the car.
56. Officers D and C then reached the driver's door. Officer D said Officer A was yelling "*get out of the fucking car*".
57. Officer C said he leaned into the car and tried to release Mr X's left hand from the door. He said Officer A was hitting Mr X's right hand with the bottom of his closed left fist to break his grip on his vest. Officer C did not refer to seeing any punches thrown.
58. As Mr X was being handcuffed, Officers G, H, and I arrived.
59. Officers G and H spoke to Officer A after Mr X was handcuffed. Both referred to him mentioning Mr X had punched him in the face. Officer H said Officer A was not angry, he was "*more distressed than anything*". Officer I also recalled speaking with Officer A and said he had complained of a sore hand from hitting the dashboard or steering wheel.

#### *Assessment of the evidence*

60. Officer F did not see Mr X punch Officer A and did not see an urgent need for Officer A to remove him from the car.
61. Officers C and D also did not see Mr X punch Officer A, because they were approaching from the back of Mr X's car. Officer D saw only Officer A's punch and considered it to be unjustified because, in his view, Mr X was not assaultive at the time.
62. Ms Y did not refer to any punches being thrown.
63. Mr X said he does not recall punching Officer A. However, as part of the diversion process he wrote a letter to Officer A saying: "*Please accept my sincerest apologies for hitting you on the jaw....*". Mr X did not make a formal complaint of an assault by Officer A. However, in the patrol car on the way to Foxton Police station he asked Officer C "*why did that officer punch me?*". Mr X also insisted he was punched by Officer A during the interview with Officer B.
64. Officer E had a clear view of what was happening in the driver's seat, and her account supports Officer A's version of events. Furthermore, Officer A received an injury to his jaw. Officer I took photographs of this.
65. Therefore, as best as we can reconcile the evidence, we find it probable Mr X punched Officer A on the jaw and grabbed his body armour.

66. Section 39 of the Crimes Act 1961 empowers Police to use reasonable force to overcome any force used in resisting an arrest. The use of force will only be justified if the arrest cannot be made *“by reasonable means in a less violent manner”*.
67. Officer A had the power to arrest Mr X for failing to stop for Police. He said:
- a) He had previously assessed Mr X as ‘assaultive’ based on the way he drove towards him at the end of the pursuit.
  - b) His perception of the risk escalated when he saw Mr X had a hammer in the footwell of the driver’s seat.
  - c) After Mr X punched him and pulled him towards the car, he was struggling to breathe.
  - d) Using pepper spray or a Taser was not appropriate in the circumstances, so he tried to protect himself by punching Mr X.
68. We find Officer A’s use of force, that he punched Mr X’s arm, in these circumstances was proportionate and reasonable. He was justified in punching Mr X to overcome the force Mr X used to resist arrest.

#### **Did Officer A press his baton into Mr X’s neck during his arrest?**

69. Officer A described his baton as a friction lock baton. This style of baton comprises three segments. When closed, two segments are housed in the handle of the baton. These extend telescopically, due to centrifugal force, when the baton is ‘flicked’ outwards by the user. Friction locks each extended segment in place, creating a rigid baton that is roughly three times the length of the baton’s handle. It is necessary to hit the tip of the baton against a hard surface (such as concrete), and at a perpendicular angle, in order to overcome the friction between the segments and collapse the baton.
70. After Mr X released his grip on Officer A’s clothing, Officers C and D were able to remove Mr X from the car and place him down on the ground.

#### *Officers C and D’s accounts*

71. Officers C and D recalled Mr X was on his back. They said his body was *“rigid”*, making it difficult for them to turn him over and handcuff him. Officer E also recalled Mr X being on his back and resisting being rolled over.
72. Officer D said while Mr X was on his back, Officer A came in and put his baton into the side of Mr X’s neck. In his Police interview, Officer D said he was certain the baton was closed (not extended). However, he later told the Authority he could not recall if it was extended or closed, but later stated it was closed.

73. Officer C also referred to Officer A coming from behind, getting onto his knees and pushing the handle end of the closed baton against the right side of Mr X's neck below his jawline. The baton was in Officer A's left fist. He did not recall how much force Officer A applied but said he did not see marks on Mr X's neck afterwards. He said Mr X was on his back and had eye contact with Officer A at the time, although he was not sure whether Mr X could see the baton.
74. Officers C and D said Officer A's actions were preventing them from getting Mr X onto his stomach so they could handcuff him.
75. They discussed the matter after the fact and agreed Officer A's actions were "*unnecessary and excessive*".

#### *The other officers accounts*

76. Officer E said Officer A was up by Mr X's head and was getting in the way. However, she did not recall seeing him take any physical action.
77. Officer F was present and did not witness Officer A use his baton.

#### *Mr X's account*

78. In his Police interview Mr X indicated he was face up before being rolled over and handcuffed. In his later written statement to Police he stated, "I was put face down on the ground and they were holding me down, I don't remember much else."
79. Mr X told the Authority he was "*pushed, manhandled, person handled down*" and it was a "*full on attack*". Three or four officers removed him from the car, he was "*pushed*" or "*thrown*" to the ground and handcuffed behind his back.
80. Mr X did not know where Officer A was once he was removed from the car. He did not recall any interaction with him while he was being detained and handcuffed, an object (i.e. the baton) being placed in the side of his neck, or whether anyone was kneeling or leaning on him. He stated that he had "*more or less given up at that stage*".

#### *Officer A's account*

81. Officer A maintained Mr X came out of the car face first and was still holding on to his body armour. This led to Mr X ending up face down on the ground.
82. Officer A told the Authority he was near Mr X's head and shoulders. He denied placing his baton into the side of Mr X's neck. He said it was fully extended at the time and secured in his belt loops. He had nothing in his hands. Officer A said he restrained Mr X using normal techniques: "*I would have been around his upper back region and I would have been kneeling on him*".
83. He maintained he stored his baton in the rear belt loops of his body armour after removing Mr X's keys and he did not remove and close it until after Mr X was detained.

### Assessment of the evidence

84. Due to conflicting accounts the Authority is unable to reconcile whether Mr X initially came out of the car onto his front, or back, but in the context of the issue, his exact positioning is of little importance.
85. It is accepted that Officer A had his baton extended when he approached Mr X at the car. Officers C and D did not see it when he was at the car and Officer A said that he had stored it, still fully extended, behind his back in his belt loops once he reached the car and determined Mr X was no longer a threat. To have stored the baton is consistent with what happened in the altercation with Mr X at the car. It would have been impossible for Officer A to have attempted to overcome Mr X's resistance if he had maintained an extended (21 inch) baton in his right hand while he struggled with and punched Mr X through the window and resisted Mr X's attempts to pull him into the car. In any event, Mr X confirmed Officer A was not holding the baton when he punched Mr X (see para 35).
86. Therefore, in order for Officer A to have placed the baton against Mr X's neck as described by Officers C and D, he would have had to take his baton back out of his belt loops and closed it in the few seconds between Mr X being removed from the car and the completion of Mr X's arrest. He would then have had to re-extend it and replace it in his belt-loops, as immediately after Mr X was handcuffed, Officer I recalled seeing the extended baton tucked into the belt loops of Officer A's body armour. Additionally, nobody recalled seeing or hearing Officer A collapse his baton, given that this is an overt action. If he had closed it, it is likely other officers would have noticed. Officer A states that after Mr X was handcuffed and taken to a patrol car he walked out onto the road and closed his baton against the tar seal.
87. Moreover, Mr X did not recall anything being placed against his neck, or even where Officer A was at the time he was on the ground.
88. The Authority accepts that Officer A did not press his baton into Mr X's neck. We are unable to reconcile Officers C and D's claims with the facts and conclude they must have been mistaken in what they say they saw.

### Did Officer A drop his knee into Mr X's back? and/or push his head down with his hand while he was being restrained?

#### Officer D's account

89. In his Police statement, Officer D stated when Mr X was eventually rolled onto his stomach, he was able to handcuff his left wrist. As he was doing so, Officer A *"dropped his knee into the top of [Mr X's] back shoulder area and either hit him to the back of the head or pushed down the back of his head"*. He told the Authority *"I don't know if it was a punch or an open hand, but you could just see his hand come down on top of the guy's head and sort of push it or force it into the ground"*. Officer A was in the way, preventing him from getting Mr X's other arm behind his back.
90. Officer D yelled at Officer A to get out of the way, and eventually Officer C was able to get Mr X's other hand behind his back and complete the handcuffing.

### *Officer C's account*

91. However, Officer C told the Authority he did not recall Officer A placing a knee on Mr X's back or pushing the back of his head.

### *The other Officers' accounts*

92. During the Police's investigation into this incident, Officer F said he told Officer A to back off at about this time. However, his concern was due to Officer A's verbal aggression rather than any physical act.
93. Officer F told the Authority Officer A was "*agitated*" and he was concerned if Officer A took the lead with the arrest, he may do something unnecessary. But Officer F did not see him do so and could understand why Officer A was upset. Although he did not see any use of the baton, knee, or push of Mr X's head he acknowledged there were opportunities for Officer A to do so.
94. Officer E also helped with detaining Mr X. She recalled Mr X "*nutting*", and said Officer A was angry, saying things back to Mr X although she did not recall what. She thought Officer A needed to "*chill out*" but did not remember any physical action by him at this time.
95. Officers E and F discussed the incident afterwards. Officer F said he was not happy with Officer A's "*amped up*" state at the time, but thought the other officers stepping in stopped the situation from getting out of control. He told the Authority he "*certainly didn't see any physical assaults by [Officer A]*".
96. Officer B told the Authority Mr X had a ripped shirt but did not appear injured or require medical attention. He was complimentary of Officer A's actions during the incident. He believed he acted lawfully and appropriately and used reasonable and proportionate force in the circumstances.

### *Mr X's account*

97. Mr X did not complain of force to his back or head. However, he told Police he did not remember much of being on the ground.

### *Officer A's account*

98. Officer A denies pushing the back of Mr X's head with his knee. F. However, it is noted that he said he "*I would have been around his upper back region and I would have been kneeling on him*". He also did not recall any interaction with Officer F.
99. Officer A said he was definitely speaking to Mr X, and at some point, he said Mr X had tried to run him over. He also said he believed Mr X had driven towards him when he had blocked his path with the road spikes. Officer A said Mr X was repeating he had not been speeding.

### *Assessment of the evidence*

100. We find there is insufficient evidence to find Officer A pushed or hit Mr X's head into the ground. Officer D is the only person who said it happened. Officer C was in close proximity at the time but did not recall Officer A doing it. Officer A denied doing it, and Mr X did not recall it happening or make a complaint.
101. Officer A accepts having kneeled on Mr X's back. However, the Authority considers this was acceptable in the circumstances as Mr X was resistant to being handcuffed and had previously assaulted Officer A.
102. The Authority does not accept that Officer A "*dropped*" his knee into Mr X's back as described by Officer D.

### FINDING ON ISSUE

Officer A was justified to punching Mr X to overcome the force he used in resisting arrest.

Officer A did not press his baton into Mr X's neck or push Mr X's head into the ground.

Officer A knelt on Mr X's back. However, he did not "drop" his knee onto him.



**Judge Colin Doherty**

Chair  
Independent Police Conduct Authority

21 July 2020

**IPCA: 18-2311**

## Appendix – Laws and Policies

### Law on the use of force

103. Section 39 of the Crimes Act provides for law enforcement officers to use reasonable force in the execution of their duties such as arrests and enforcement of warrants. Specifically, it provides that officers may use *“such force as may be necessary”* to overcome any force used in resisting the law enforcement process unless the process *“can be carried out by reasonable means in a less violent manner”*.
104. Under section 62 of the Act, anyone who is authorised by law to use force is criminally responsible for any excessive use of force.

### Police Use of Force policy

105. The Police ‘Use of Force’ policy provide 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 and arrest or otherwise carry out lawful duties .These include communication, mechanical restraints, empty hand techniques (such as physical restraint holds and arm strikes), OC spray, batons, Police dogs, Tasers and firearms.
106. Police policy provides a Tactical Options Framework for officers to assess, reassess, manage and respond to use of force situations, ensuring 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.
107. 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: the incident type, location and time; the officer and subject’s abilities; emotional state, the influence of drugs and alcohol, and the presence or proximity of weapons; similar previous experiences; and environmental conditions. Police refer to this assessment as an officer’s Perceived Cumulative Assessment (PCA).
108. Wherever possible and appropriate, officers should use tactical communication throughout an incident, alone or with any other tactical options. Tactical communication is crucial to safely de-escalating an incident with uncooperative subjects. Tactical communication should be attempted in every incident where Police action is necessary in response to uncooperative subjects, including those that may require force to be used.
109. A key part of an officers decision to decide when, how and what level to use force depends on the actions of, or potential actions of, the people involved, and depends on whether they are :cooperative; passively resisting (refuses verbally or with physical inactivity); actively resisting (pull, pushes or runs away); assaultive (showing an intent to cause harm, expressed verbally or

through body language or physical action); 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.

110. 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?

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The Independent Police Conduct Authority is an independent body set up by Parliament to provide civilian oversight of Police conduct.

It is not part of the Police – the law requires it to be fully independent. The Authority is overseen by a Board, which is chaired by Judge Colin Doherty.

Being independent means that the Authority makes its own findings based on the facts and the law. It does not answer to the Police, the Government or anyone else over those findings. In this way, its 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 complaints alleging misconduct or neglect of duty by Police, or complaints about Police practices, policies and procedures affecting the complainant in a personal capacity;
- investigates, where there are reasonable grounds in the public interest, incidents in which Police actions have caused or appear to have caused death or serious bodily harm.

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 of investigators, report writers and managers. 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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