



## Issues examined by the Authority

- Issue 1:** Was the use of the Police dog to apprehend Mr X lawful and reasonable?
- Issue 2:** Did Police use derogatory language towards Mr X?
- Issue 3:** Did officers manage Mr X and Mr Y appropriately while in custody?
- Issue 4:** Was Mr X's family discouraged from laying a complaint?

## The Authority's Findings

9. The Authority found that:
- 1) the use of a Police dog on Mr X was lawful and reasonable;
  - 2) Officer C instructed the dog to release Mr X within an appropriate period of time and as soon as Mr X was under control;
  - 3) Officer C controlled the Police dog appropriately after apprehending Mr X;
  - 4) we could not determine whether derogatory language was used against Mr X;
  - 5) Mr X and Mr Y were managed appropriately while in custody;
  - 6) Officers A and D failed to comply with the notification policy for youth arrests; and
  - 7) we do not believe Officer E deliberately discouraged Mr X's family from laying a complaint against Police.

## Analysis of the Issues

### ISSUE 1: WAS THE USE OF THE POLICE DOG TO APPREHEND MR X LAWFUL AND REASONABLE?

10. When Officer A saw the speeding car, he was able to see the occupants were two males: *"one in the driver's and one in the front passengers [seat] and the only other detail I got was a grey hoodie"*. He believed they were adults due to their size.
11. Officer A chose not to pursue the car for safety reasons. However, he notified his supervisor, Officer B, and a dog handler, Officer C, of the incident by radio.
12. Officer A saw the car going down a beach access road that was: *"a long three kilometre stretch along the beach with different inlets...it ends sort of at a dead-end and there's only one way in"*.
13. He notified Officers B and C of his location. They all drove down the long road in separate cars until they reached the end where they found the stolen car. The car was empty, but the ignition had been damaged, and a well-known gang symbol was drawn on the centre console.

14. Officer C had previously been involved in multiple car thefts involving the same gang in the Gisborne area. He told us that:

*“It’s rife at the moment the amount of cars that are getting stolen, so what that’s doing is that’s increasing victims in our community which isn’t what we’re about, you know, we want to reduce the victimisation but these guys are just rife at the moment and its’ [the gang who] are responsible for it.”*

15. Because of his experience and the tagging inside the car, Officer C thought that it was highly likely that the offenders were gang affiliated. He knew that to steal cars, offenders often carry tools on them that can also be used as weapons. Officer C knew that at least two people were involved in stealing the car from the description provided by Officer A.
16. Officer C used the Police dog to track Mr X and Mr Y. When the dog picked up the track, it led past where the road ended, into isolated, rural land that was bordered on one side by the ocean. Officer B set off in the same direction as Officer C, to be his “cover person”.
17. Officer B was unable to keep up with Officer C and his dog. They got separated by about 250m as Officer B used thermal imaging optics to find his way. Officer A stayed with the stolen car.
18. While tracking, the dog indicated to Officer C that there was more than one offender, which matched Officer A’s earlier information. Officer C tracked for about 1.5km before the dog indicated to him the offenders were nearby.
19. Officer C stopped at the bottom of a stopbank when he heard “yo, yo, yo” in a hushed whisper. He knew that this is a common gang greeting for the gang which the tagging in the car represented and the members of which had been stealing cars in Gisborne.

#### *What happened during the apprehension of Mr X?*

20. Mr X told Police that he and Mr Y had seen the Police car driving around, and knew they were looking for the stolen car they were in. He said:

*“we didn’t really have no choice to turn around, so we just went all the way to the end [of the road], parked the car and yeah, me and [Mr Y] got out...we started walking along this bank sort of by the river. And then when we got halfway down there, had a bit of a rest to see what will happen next.”*

21. Mr X told us that he was sitting on the stopbank when Officer C approached him and Mr Y. He said he was not warned that Officer C was a Police dog handler or would use the dog. He denied moving backwards, away from Officer C.
22. Officer C says he shone his torch on Mr X, who was midway up the stopbank. He says he issued a warning: “Police dog handler, stay where you are or I’ll let the dog go”.
23. After this warning, Mr X continued to move backwards up the bank in a “scuttling” motion that Officer C described as: “not a run but it’s a walk but he’s going up a hill backwards”. Officer C did not know where Mr Y was at this stage.

24. Officer C commanded his dog to “rouse” and released it towards Mr X.<sup>2</sup> The dog latched on to Mr X’s lower body. Mr X lost his footing and slipped. He rolled down the stopbank and the Police dog continued to bite him to maintain control. As the dog re-engaged him, Mr X received bite wounds to his legs, hip, and buttocks.
25. Officer C told us that after the dog bit Mr X, Mr X said: “*Yep, I give up*”. Officer C says he removed the dog straight away. Officer C did not handcuff Mr X but told him to stay on the ground. Mr X complied with the instruction.
26. Officer C turned his attention to finding Mr Y. He located him at the top of the stopbank. Mr Y surrendered and lay on the ground.
27. Officer C moved Mr X to the top of the stopbank, adjacent to Mr Y. He did not approach them to handcuff them as he was holding the dog. Mr X and Mr Y told Officer C that a third offender had been driving the car and they did not know it had been stolen. Officer C called the Northern Communications Centre to let them know two people were in his custody and that he would need to search for the third when Officer B arrived.<sup>3</sup>
28. Officer B heard this message on his radio while he was making his way to Officer C. Officer A also heard this message and left the stolen car to come to the stopbank and assist with taking the two offenders into custody so Officer C could continue the search.
29. Mr X and Mr Y were arrested by Officer B and C on their arrival. They were read their rights under the New Zealand Bill of Rights Act 1990 and individually escorted back to the Police cars.

*Police meeting with family the following day*

30. The day after the incident, Mr X and two family members went to the Police station and discussed the incident with Officer E.
31. Officer E says that she told Mr X and his family Officer C’s version of events, specifically that the dog was released because Mr X was moving backwards despite being given a warning to stop. Officer E says that Mr X responded: “*no, no, no, we were both moving*”. This comment was in reference to himself and Mr Y.
32. There is a conflict of accounts between Mr X and Officer C’s version of events. However, based on Mr X’s admission to Officer E, we believe Officer C’s account is credible and that Mr X was most likely moving backwards when the dog was released. We asked Mr X to speak to us about this, but he declined to talk to us further after an initial discussion with him. Mr Y’s mother did not respond to our attempts to contact her and told Police she was unwilling to talk to either them or us about the incident.

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<sup>2</sup> ‘Rouse’ is the command for a Police dog to engage.

<sup>3</sup> The third person was searched for and no scent was located. Officer C was able to determine that only Mr X and Mr Y were involved in stealing the vehicle.

## Was the use of the dog lawful?

### *Officer C's view of the circumstances*

33. Officer C believed the following to be true:

- he was alone and in an isolated area where a Police car could not reach;
- Officer B was behind him, moving slower than he was. He did not know how far away Officer B was;
- Mr X and Mr Y had just stolen a car and fled into an isolated area. They were either trying to evade Police or meeting someone else (based on the greeting they gave Officer C when they could not identify him as a Police officer);
- it was likely that Mr X and Mr Y were gang affiliated due to the greeting and tagging;
- the area had extensive gang crime, particularly in stealing cars;
- it was likely that they were carrying tools to steal cars, such as screw drivers, which could be used to hurt him; and
- he did not know (and had no way of finding out) Mr X or Mr Y's identity other than that they appeared to be adult males.

### *Legal justification for the use of force in these circumstances*

34. Officer C told us that after he warned Mr X, he released the dog under section 39 of the Crimes Act 1981.<sup>4</sup> This section gives Police the power to use "*such force as may be necessary*" to overcome any force used by an offender when executing their arrest. Officer C says it was important for him to do this for two reasons:

- 1) Mr X and Mr Y had committed a crime when they stole a car, which is punishable by a prison sentence; and
- 2) as a Police officer he considers it part of his duty to hold offenders to account, which meant he had to apprehend Mr X and Mr Y.

35. The Authority does not consider section 39 as a legal justification for releasing the dog onto Mr X, as Mr X was not using any force against Officer C.

36. However, we considered section 40 of the Crimes Act as Officer C used the dog to prevent Mr from fleeing.

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<sup>4</sup> Refer to paragraphs 72 for law on section 39.

*Was Officer C legally justified in using force against Mr X to prevent his escape under section 40?*

37. Section 40 empowers Police to use “*such force as may be necessary*” to prevent the escape of someone who takes to flight to avoid arrest.<sup>5</sup> The proportionality of an officer’s use of force under section 40 should be assessed against three factors:

- a) the seriousness of the offence which the person was reasonably suspected to have committed;
- b) the likelihood that the absence of immediate apprehension would have impeded or prevented the person from being brought to justice (eg. because evidence would have been lost or there were no other avenues available to effect apprehension); and
- c) the likelihood and degree of risk he posed if escape was not prevented.

*Did Officer C believe on reasonable grounds that Mr X was fleeing to avoid arrest?*

38. Officer C believed that Mr X was fleeing to avoid arrest for the following reasons:

- Mr X and Mr Y had just been in a stolen car, which gave them a reason to want to evade Police;
- after abandoning the stolen car, Mr X and Mr Y had moved 1.5km into isolated, rural land;
- Mr X did not surrender to Officer C when he was walking towards them or identify himself; and
- when Officer C shone a light on Mr X, he moved backwards away from Officer C.

39. Based on these factors, we believe it was reasonable for Officer C to determine that Mr X was avoiding arrest.

*Was Officer C’s use of force to prevent Mr X’s escape reasonable and proportionate?*

40. Officer C believed that Mr X and Mr Y posed a threat to him and the public because they had stolen a car, evaded Police, and had possible access to weapons. Officer C told us that without apprehending Mr X immediately, he believed they: “*wouldn’t be able to hold that person to account for the crime*”.

41. Officer C thought that Mr X and Mr Y may have some link to gang activity due to the recent spike in stolen cars, tagging in the stolen car, and the greeting used. He was alone and could only see Mr X. He was aware that Mr Y posed the same level of threat and had the same reason to flee as Mr X. Because of this, he had to use a tactical option that could stop Mr X from fleeing while Officer C was still able to defend himself from Mr Y, if required.

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<sup>5</sup> Refer to paragraphs 73 for law on section 40.

42. Officer C had a range of options from within the Tactical Options Framework available for him to prevent Mr X from escaping.<sup>6</sup> Officer C says he used the dog as it was *“the best option at the time to apprehend this person”*. Although he had other less forceful options available, he felt they *“weren't practical at that time”* for the following reasons:
- tactical communication had been used when he warned Mr X and it caused the opposite reaction to what was intended;
  - pepper spray could not be used because: *“there's every chance of self-contamination and that incapacitates me which gives them the upper hand to do whatever to me”*; and
  - his Taser could not be used as Mr X was above him on the stopbank.<sup>7</sup>
43. Although we do not believe that a stolen car always warrants apprehension of its occupants by use of a Police dog, we do believe that Officer C was informed in his decision making by the following assessment:
- he could only see Mr X;
  - Mr X and Mr Y could reasonably have access to tools that could be used to harm him;
  - the tagging in the vehicle and language used meant that Officer C reasonably believed this crime may be gang related; and
  - he was unaware of Mr X and Mr Y's identity as the car was stolen, and not registered to either of the offenders. Officer B did not have further lines of enquiry to find out who Mr X and Mr Y were to arrest them at a later date.
44. Therefore, we believe that Officer C was justified in using his dog to apprehend Mr X under section 40. We believe that Officer C used the most appropriate tactical option to do so.

#### *Was the dog left on Mr X for an appropriate time?*

45. When the dog bit Mr X, they both rolled down the stopbank together. This caused Mr X to have multiple bite wounds as the dog tried to maintain control.
46. Officer C told us that his dog engaged Mr X for *“no more than five to seven seconds”* including the time they were rolling down the bank. However, Mr X told us that Officer C left the Police dog to bite him for five minutes. Mr X later told Police that the dog was left to bite him for a *“minute and a half”*.

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<sup>6</sup> The Tactical Options Framework (TOF) is a training and operational tool that assists constables to appropriately decide when, how, and at what level to use a tactical option(s). The TOF guides constables to use force that is necessary and proportionate, given all the circumstances known at the time.

<sup>7</sup> Police policy states that in situations where the subject is fleeing and may fall, deploying a Police dog rather than Taser may be more appropriate to mitigate the increased risk of injury and to incapacitate the fleeing subject.

47. Officer C told us that if someone was bitten for five minutes: *“they'd be seriously injured and they'd require hospital treatment if the dog was on for 30 seconds... Five minutes is a very long time to be bitten”*.
48. As soon as Officer C gained compliance from Mr X, he focused on trying to locate Mr Y. He used his torch to find Mr Y, who had surrendered on the top of the stopbank by putting his hands up. Officer C instructed Mr Y to stay where he was, Mr Y voluntarily lay on the ground. Officer C then told Mr X to move on to the stopbank with Mr Y.
49. Officer C was able to gain this level of compliance because he had the dog. If he had left the dog biting Mr X for five minutes, it is unlikely Mr Y would have been located surrendering on the stopbank.
50. Medical records show that Mr X was seen by a doctor at Gisborne Police Station an hour after the dog bite. The doctor determined that there was no serious injury or penetrating wounds. Mr X's grazes were dressed and he was given antibiotics and pain relief.
51. We believe that Mr X's injuries were inconsistent with his account that the Police dog was left to bite him for either 90 seconds or five minutes, and are consistent with the apprehension as explained by Officer C. While Mr X may have thought it a long time in the circumstances, we do not believe the Police dog was left on him any longer than necessary.

#### *Did Officer C handle the Police dog appropriately after apprehending Mr X?*

52. Mr X told us that Officer C *“was making the dog come up to me real close”* on the stopbank, *“sniffing my stomach and my legs”*. Mr X was frightened by this as he felt the dog may bite him again.
53. Officer C denies that he would let the dog near any person after it had apprehended them because:

*“there's too much risk that if they suddenly move the dog's going to take that as a threat and they'll bite or re-engage and that's a no, no. You stay far enough away so those mistakes don't happen.”*
54. Officer B caught up to Officer C during the time that the offenders were lying on the stopbank.<sup>8</sup> He recalls the dog: *“would have been five metres at least”* away from Mr X and Mr Y. Officer B then handcuffed both Mr X and Mr Y.
55. There is a conflict of accounts between Mr X and Officer C. We believe that when Officer B was present, the dog was metres away from Mr X and Mr Y. However, there are minutes which Officer B was not witness to.
56. We think it is highly unlikely that Officer C would have held the dog near Mr X and Mr Y as the dog, in a heightened state, would pose a high risk of unjustly injuring them, which Officer C

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<sup>8</sup> None of the officers knew exactly how far behind Officer C they were, and Officer C was unable to give exact times of when Officers A and B arrived.

would be accountable for. We believe that Officer C controlled the dog appropriately after apprehending Mr X.

#### FINDINGS ON ISSUE 1

The use of a Police dog on Mr X was lawful and reasonable.

Officer C instructed the dog to release Mr X within an appropriate period of time and as soon as Mr X was under control.

Officer C controlled the Police dog appropriately after apprehending Mr X.

#### ISSUE 2: DID POLICE USE DEROGATORY LANGUAGE TOWARDS MR X?

57. Mr X told us that Officer C called him derogatory names, such as “*pussy*” and a “*fuckwit*”, during the arrest process. Mr X also felt that Officer C praised his dog in a manner that offended him, calling the dog biting him “*beautiful*”.
58. Officer C denies calling Mr X or Mr Y any derogatory names. He says that he does praise the dog, as it is trained to apprehend offenders and requires positive reinforcement. However, he denied calling the dog’s work “*beautiful*”.
59. When Officer B arrived, he did not hear Officer C use any derogatory language towards either Mr X or Mr Y. We believe that no derogatory comments were made while Officer B was present.
60. There are minutes which Officer B could not be witness to. During this period, there is a conflict of accounts between Officer C and Mr X. Therefore, we cannot determine whether Officer C used derogatory language towards Mr X prior to Officer B’s arrival.
61. We think it is reasonable for Officer C to praise his dog for completing the work it is trained to do.

#### FINDING ON ISSUE 2

We could not determine whether Officer C used derogatory language towards Mr X.

#### ISSUE 3: DID OFFICERS MANAGE MR X AND MR Y APPROPRIATELY WHILE IN CUSTODY?

62. In the initial complaint, Mr X’s mother said that while being processed, Mr X was not able to explain the fact that he was unaware the car was stolen and was not able to have a legal guardian at the Gisborne Police Station.
63. We believe that Mr X had the ability to give his version of events during the following times:
  - when Officer A walked him to the Police car and they discussed the alleged third occupant of the stolen car; and
  - when Police offered Mr X the opportunity to be video interviewed and he declined.

64. We believe Police managed Mr X and Mr Y appropriately in custody for the following reasons:

- Officer C was initially unaware of how old Mr X and Mr Y were. While on the stopbank, Officer C recognised Mr Y as the younger brother of a youth offender and realised both Mr X and Mr Y were likely youths too. However, neither Mr X nor Mr Y would give Officer C their details to confirm their identities. When Officer C handed over Mr X and Mr Y to Officers A and B he told them they were youths;
- upon review, it was found that all officers involved treated Mr X and Mr Y in accordance with section 214, 215 and 217 of the Oranga Tamariki Act 1989;<sup>9</sup>
- on arrival at the Police Station, Mr X was promptly given medical care for his injuries;
- Mr Y's parent was contacted by Officer D and he was released into their care;
- there was a delay in contacting Mr X's guardian as he only provided his father and grandfather's details, neither of whom could collect him. He did not provide his mother's details, which is why she was not contacted. When Police met with Mr X's mother, she acknowledged that Mr X was likely afraid to give her contact details as he would have been worried that he would get in trouble with her; and
- once Mr X was processed for stealing the car, Police dropped him off at his grandfather's house as they could not locate any other family members to collect him.

65. During their investigation, Police found that Officers A and D did not send the appropriate report after Mr X and Mr Y were arrested.<sup>10</sup> We agree that the report should have been sent to the Commissioner of Police within three days.

### FINDINGS ON ISSUE 3

Mr X and Mr Y were managed appropriately while in custody.

Officers A and D failed to comply with the notification policy for youth arrests.

### ISSUE 4: WAS MR X'S FAMILY DISCOURAGED FROM LAYING A COMPLAINT?

66. Mr X's mother went to the Police Station the following day with her sister and Mr X. She says that she felt Officer E discouraged her from laying a complaint about Mr X's treatment when they met.

67. Officer E had not been present at the incident but had read the Tactical Options Report (TOR) Officer C had written after the event, to gain an understanding of what occurred.<sup>11</sup>

<sup>9</sup> Refer to paragraphs 74 - 76 for law on the Oranga Tamariki Act 1989.

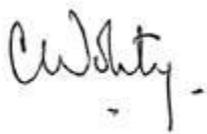
<sup>10</sup> Police are required to provide a written report to the Commissioner of Police within three days of arresting a child or young person.

<sup>11</sup> A Tactical Options Report (TOR) is a report that an officer is required to complete when he or she has used force on a member of the public. The report includes each tactical option and a description of the force used and the reasons for using it.

68. Mr X's mother says Officer E told them that: "*[Officer C's] credibility is better than [Mr X's] credibility*" and that could affect "*how far you would get*". Mr X's mother says Officer E did tell them: "*we could go online and make a complaint and that it is done separately and independently*". However, she felt Officer E discouraged them from complaining about Police by discussing Mr X's credibility.
69. Officer E denies deliberately discouraging Mr X's family from laying a complaint. She says she was aware the version of events between Mr X and Officer C were different and believed they would not be able to reconcile them in the meeting. Officer E says she told the family: "*we won't be resolving this today so the way forward here is for you to go to the IPCA*" and told them how they could make a complaint to us.
70. Officer E says she did not discuss Mr X's credibility but did discuss Officer C's credibility with Mr X's family. Officer E says she asked the mother and aunty if they knew a Police dog handler. She told us that the reason she did this was because Officer C was involved in many community-based activities with his family outside of work that Mr X's family may be involved in. Officer E told us that she felt if Mr X's family knew Officer C and that it was him who released the dog, it may affect their view of the situation. Officer E says that she thought they may think that:
- "he wouldn't have just let the dog go, there's no way so that's what I was hoping to achieve by asking if they knew a dog-handler 'cos you know, my chances of people knowing [Officer C] would have been, I thought, quite high but they didn't know him so that was kind of, fell a little bit flat."*
71. We believe that Officer E fully informed the family of how they could make a complaint against Police. We believe that Officer E did comment on Officer C's credibility but was doing so to build rapport with the family rather than to deliberately discourage Mr X's family from making a complaint.

#### FINDING ON ISSUE 4

We do not believe Officer E deliberately discouraged Mr X's family from laying a complaint against Police.



**Judge Colin Doherty**

Chair  
Independent Police Conduct Authority  
9 December 2021  
**IPCA: 21-6837**

## Appendix – Laws and Policies

### LAW

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#### Crimes Act 1961, Section 39: Use of force

72. Force used in executing process or in arrest: Where any person is justified, or protected from criminal responsibility, in executing or assisting to execute any sentence, warrant, or process, or in making or assisting to make any arrest, that justification or protection shall extend and apply to the use by him or her of such force as may be necessary to overcome any force used in resisting such execution or arrest, unless the sentence, warrant, or process can be executed or the arrest made by reasonable means in a less violent manner:

provided that, except in the case of a constable or a person called upon by a constable to assist him or her, this section shall not apply where the force used is intended or likely to cause death or grievous bodily harm.

#### Crimes Act 1961, Section 40: Preventing escape or rescue

73. (1) Where any person is lawfully authorised to arrest or to assist in arresting any other person, or is justified in or protected from criminal responsibility for arresting or assisting to arrest any other person, that authority, justification, or protection, as the case may be, shall extend and apply to the use of such force as may be necessary—

(a) to prevent the escape of that other person if he or she takes to flight in order to avoid arrest; or

(b) to prevent the escape or rescue of that other person after his or her arrest—unless in any such case the escape or rescue can be prevented by reasonable means in a less violent manner: provided that, except in the case of a constable or a person called upon by a constable to assist him or her, this subsection shall not apply where the force used is intended or likely to cause death or grievous bodily harm.

(2) Where any prisoner of a prison is attempting to escape from lawful custody, or is fleeing after having escaped therefrom, every constable, and every person called upon by a constable to assist him or her, is justified in using such force as may be necessary to prevent the escape of or to recapture the prisoner, unless in any such case the escape can be prevented or the recapture effected by reasonable means in a less violent manner.

#### Oranga Tamariki Act 1989, Section 214: Arrest of child or young person without warrant

74. (1) Subject to section 214A and sections 233 and 244, where, under any enactment, any enforcement officer has a power of arrest without warrant, that officer shall not arrest a child or young person pursuant to that power unless that officer is satisfied, on reasonable grounds,—

(a) that it is necessary to arrest that child or young person without warrant for the purpose of—

(i) ensuring the appearance of the child or young person before the court; or

(ii) preventing that child or young person from committing further offences; or

(iii) preventing the loss or destruction of evidence relating to an offence committed by the child or young person or an offence that the enforcement officer has reasonable cause to suspect that child or young person of having committed, or preventing interference with any witness in respect of any such offence; and

(b) where the child or young person may be proceeded against by way of summons, that proceeding by way of summons would not achieve that purpose.

(2) Nothing in subsection (1) prevents a constable from arresting a child or young person without warrant on a charge of any offence where—

(a) the constable has reasonable cause to suspect that the child or young person has committed a category 4 offence or category 3 offence for which the maximum penalty available is or includes imprisonment for life or for at least 14 years; and

(b) the constable believes, on reasonable grounds, that the arrest of the child or young person is required in the public interest.

(3) Every enforcement officer who arrests a child or young person without warrant shall, within 3 days of making the arrest, furnish a written report—

(a) where that enforcement officer is a constable, to the Commissioner of Police:

(b) where that enforcement officer is a traffic officer who is a Police employee who is not a constable, to the Commissioner of Police:

(c) where that enforcement officer is an officer or employee of the public service, to the chief executive of the department of which that person is an officer or employee:

(d) where that enforcement officer is an officer of a local authority, to the chief executive of that local authority.

(4) Every report furnished pursuant to subsection (3) in respect of the arrest of any child or young person shall state the reason why the child or young person was arrested without warrant.

**Oranga Tamariki Act 1989, Section 215: Child or young person to be informed of rights before questioned by enforcement officer.**

75. Subject to sections 233 and 244, every enforcement officer shall, before questioning any child or young person whom there are reasonable grounds to suspect of having committed an

offence, or before asking any child or young person any question intended to obtain an admission of an offence, explain to that child or young person—

(a) subject to subsection (2), if the circumstances are such that the enforcement officer would have power to arrest the child or young person without warrant, that the child or young person may be arrested if, by refusing to give their name and address to the enforcement officer, the child or young person cannot be served with a summons; and

(b) subject to subsection (2), that the child or young person is not obliged to accompany the enforcement officer to any place for the purpose of being questioned, and that if the child or young person consents to do so, the child or young person may withdraw that consent at any time; and

(c) that the child or young person is under no obligation to make or give any statement; and

(d) that if the child or young person consents to make or give a statement, the child or young person may withdraw that consent at any time; and

(e) that any statement made or given may be used in evidence in any proceedings; and

(f) that the child or young person is entitled to consult with, and make or give any statement in the presence of, a barrister or solicitor and any person nominated by the child or young person in accordance with section 222.

(2) Nothing in paragraph (a) or paragraph (b) of subsection (1) applies where the child or young person is under arrest.

(3) Without limiting subsection (1), where, during the course of questioning a child or young person, an enforcement officer forms the view that there are reasonable grounds to suspect the child or young person of having committed an offence, the enforcement officer shall, before continuing the questioning, give the explanation required by that subsection.

### **Oranga Tamariki Act 1989, Section 217: Rights to be explained to a child or young person who is arrested**

76. Subject to sections 233 and 244, every enforcement officer shall, on arresting any child or young person pursuant to section 214, explain to that child or young person the matters specified in paragraphs (c) to (f) of section 215(1).



# 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 Colin Doherty.

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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