

Complaint about force used in Christchurch custody suite partially upheld

Summary of the Incident

1. Police arrested Mr X on 4 June 2020 at 11.20pm for breaching his bail conditions by drinking alcohol. He was taken to Christchurch Central Police Station and placed in a holding cell.¹ On 30 October 2020 Mr X complained to the Authority that he was repeatedly assaulted during this incident by being thrown to the ground, punched, kneed, elbowed, and held by the throat.
2. At about 12.30am on 5 June 2020, having already spoken to Mr X and given him time to calm down, Officer A spoke again with Mr X through the holding cell door. Officer A then opened the door and stood just inside the doorway of the cell with the intention of transferring Mr X to another cell.
3. Mr X refused to leave the cell. During the verbal exchange that followed, Officer A took hold of Mr X around the back of the head and pulled him out of the holding cell and down to the ground.
4. During the ensuing scuffle, Mr X grabbed and tightly squeezed Officer A's testicles at least four or five times. Officer A delivered four strikes to Mr X's head with his forearm or closed fist. Four other officers assisted with restraining Mr X and placing him in handcuffs. He was then transferred to another cell.
5. Mr X was charged with assaulting Officer A by grabbing his testicles. This charge was later withdrawn.
6. Police investigated the officers' actions and found that, overall, the force used was justified, but Officer A should not have struck Mr X's head or applied pressure to his neck during the struggle.

¹ Holding cells are a temporary cell where a prisoner is initially placed prior to going through the risk assessment and receiving process of the custody suite.

Issues examined by the Authority

Issue 1: Was the use of force against Mr X justified?

Issue 2: Was necessary medical care provided to Mr X?

The Authority's Findings

7. The Authority concluded:
 - 1) Officer A was justified in forcefully removing Mr X from the holding cell;
 - 2) Officer A was initially justified in using force to restrain Mr X, and to protect himself from Mr X grabbing his testicles;
 - 3) The force Officer A used in the latter part of the struggle, targeting Mr X's head and neck area, was unjustified;
 - 4) Officer D should not have stood on Mr X; and
 - 5) Mr X was not provided with necessary medical care in custody. His foot and head injuries should have been assessed by a doctor.

Analysis of the Issues

ISSUE 1: WAS THE USE OF FORCE AGAINST MR X JUSTIFIED?

Officer A's decision to take Mr X to the ground

Mr X's version of events

8. Mr X spoke to the Authority about the incident but says that he was drunk at the time and has limited recollection beyond what he said in his initial complaint to us.
9. Prior to his contact with Police, Mr X had cut the heel of his foot. Although he was wearing a sock the cut had been bleeding while he was in the holding cell. He does not recall being offered medical treatment for his cut foot while he was in the holding cell.
10. Mr X's recollection is that Officer A wanted him to move cells, but he did not want to walk from one dirty area to another on his cut foot. Officer A told him to put a plastic bag over his foot, but he did not think the plastic bag would help, as it would just slip off his foot.
11. He recalls standing at the door of the cell with Officer A in front of him, then being thrown to the floor and repeatedly kned, punched and elbowed.
12. Mr X recalls being on the floor on his knees and then being grabbed or attacked. He says he responded without even thinking. He admits that he "[gave Officer A's] testicle a tweak... after

I was thrown to the ground.” He says: “... it was just a reaction from being basically thrown on the ground.” From here he was repeatedly punched while being pinned down by the other officers.

13. Mr X recalls being unable to breathe when Officer A placed a hand on his throat. Following this, he was put in an arm bar then a headlock before other officers took him to another cell and threw him in.²
14. While he was in the cell he fell in and out of consciousness.
15. Mr X says he later saw the CCTV footage of the incident and was worried about where the punches were hitting him as “[being hit in] those areas can kill people.”
16. We asked Mr X if he did anything to aggravate the situation and he said: “I mean, possibly, I don’t know”. However, he went on to say that he had worked in similar public-facing jobs in the past where he had been spat at and threatened but he had never lost composure in a professional role. Mr X says he was “relying on [Police] to remain professional.”
17. Mr X says he did not receive any medical treatment during his time in Police custody.

CCTV footage of Mr X being taken to the ground

18. We viewed CCTV footage from the custody suite. This footage shows the incident from Officer A speaking to Mr X through the open cell door, Mr X being taken to the ground and restrained, then being walked through to another cell. The footage does not contain any audio.
19. At the beginning of the footage Mr X is sitting on the bench in the holding cell. Bloody footprints and smears cover the floor, bench, and wall. Officer A opens the cell door and stands just outside the cell by the doorway. Footage from outside the cell shows Officers B and C standing several paces back, observing Officer A’s interaction with Mr X.
20. Officer A and Mr X appear to be conversing about a clear plastic bag Officer A is holding. While Officer A appears to be saying something, Mr X responds a few times by shaking his head.
21. After about three minutes of conversation, Officer A takes a step forward and stands in the doorway still holding the clear plastic bag. Just prior to this, Officer B has moved forward so that he is now standing just outside the cell on Officer A’s left-hand side. Officer C has stepped closer and is positioned outside the cell door on Officer A’s right-hand side.
22. About 30 seconds after Officer A steps into the doorway, Mr X stands up and walks toward Officer A.
23. Mr X initially stands about a metre from Officer A but then takes a couple of short steps forward. He remains at least half a metre from Officer A and occasionally gestures with his open hands in front of him.

² An ‘arm bar’ is an approved manual restraint technique which officers can use to control a person’s movements, or to gain control over a person who may try to escape.

24. Mr X's hands are down by his side when Officer A takes a step forward, reaches out and grabs Mr X. Officer A uses his right hand to hold the back of Mr X's head and his left hand to hold the clothing on Mr X's back. Mr X responds by putting his hands up towards his face.
25. Officer A pulls Mr X down and forward, so he is brought out of the cell and onto his knees. His head appears to hit the floor. His hands are out in front of him in what appears to be an attempt to prevent his head hitting the ground first.

Officer A's version of events

26. Officer A says he had been notified by the arresting officers that Mr X was belligerent and uncooperative.
27. He says he spent about 30 minutes talking to Mr X and explaining he needed to see Mr X's foot to judge whether a doctor should be called. However, Mr X did not want to speak to him or show him his foot, and he refused medical treatment.
28. Officer A says he was patient with Mr X and took time to engage with him. He left him for 20 to 30 minutes to calm down. He spoke to Officers B and C about Mr X's lack of cooperation, but they did not discuss forcefully removing Mr X from the cell.
29. When he re-engaged with Mr X, he tried to persuade Mr X to move cells as the holding cell was not properly equipped for an overnight stay. It was also a busy Friday night, and the holding cell was likely to be needed for other people coming into custody.
30. Officer A was aware Officers B and C were just outside the cell on either side during his interaction with Mr X.
31. Officer A says Mr X was obstructive, swore at him and told him: "... you can clean up after me, you little bitch".
32. Mr X jumped up off the bench and said: "Do you want to fucking start something...let's go then!" He started squaring up to Officer A and, in Officer A's view, looked like he was ready to fight.
33. Officer A says he believed Mr X was assaultive and that he was about to be assaulted.³ When asked why, he explained:

"...I was just trying to keep eye contact with him to be fair. But you could just [see] it in his eyes he just sort of had that blank stare. He was looking straight, sort of, through me. He was sort of switching his gaze from me and to [Officer B] so that's where I believed 'okay, he wants to fight us.'"

34. He made a quick decision to grab Mr X around the back of the head to try to pull him into a "three-man takedown". He pulled Mr X's head down to allow Officers B and C to get hold of Mr

³ Assaultive is defined in Police policy on 'use of force' as "intent to cause harm, expressed verbally and / or through body language and / or physical action."

X's arms. He says he did not have time to think about his other options, he needed to act immediately as he felt he *"only had a second or two before [Mr X] was going to strike"*.

35. When asked by the Authority about the option of stepping back, Officer A says: *"I didn't think I had the time to back out of the cell and close the door without him well, attacking me"*.
36. Officer A says Mr X fell to his knees and deliberately grabbed and squeezed Officer A's testicles, causing him significant pain, giving him a fright and causing him to leap back. He says it started to go *"pear-shaped"* from that point and he needed to take Mr X to the ground.

Officer B's version of events

37. Officer B is a sergeant and was the supervisor in the custody area at the time of the incident.
38. Officer B says he could not hear exactly what was being said by Officer A and Mr X while they were initially talking. However, due to Mr X's raised voice he knew that he was refusing to move cells and was becoming verbally aggressive towards Officer A.
39. Officer B saw Mr X stand up and described him as assaultive due to:
 - Mr X's aggressive stance; and
 - Mr X asking Officer A if he wanted to *"start something"*.
40. Officer B took this to be a threat and thought Mr X may attempt to assault Officer A.
41. Officer B says Officer A attempted to restrain Mr X and managed to take him to the ground while he and Officer C tried to assist. He believes if Officer A had not taken control of Mr X he would have been assaulted. He did not think that Officer A could have stepped back out of the situation.
42. Officer B describes Mr X as *"... very, very strong and [he] was trying to break free. He was not co-operative and very difficult to get under control."*
43. Officer B took control of Mr X's feet and legs while he was thrashing out and kicking.

Officer C's version of events

44. Officer C was also unable to hear the initial conversation between Mr X and Officer A.
45. However, when he stepped closer, he could hear Mr X's unwillingness to answer questions relating to the custody risk assessment and evaluation process.
46. Officer C recalls Mr X jumping up off the bench and asking if Officer A wanted to *"start something"*.
47. Officer C says he considered Mr X to be *"really assaultive"* at this point. It looked to him like Mr X was squaring up for a fight with clenched fists and his *"body language [was] suggestive of... confrontation and aggression"*.

48. Officer C says: “... we weren’t in a position to be able to easily and safely step back from that situation”.
49. He went in to assist by attempting to restrain Mr X’s left arm and he then saw Mr X grab Officer A’s testicles with his right hand.

Was Officer A justified in using force to take Mr X to the ground to protect himself?

50. When we interviewed Officer A, he stated his primary reason for grabbing Mr X was to prevent him from assaulting him. For this reason, we will assess Officer A’s actions under section 48 of the Crimes Act first, before turning to assess them under section 39 of Crimes Act (see paragraphs 63-75).

Self-defence

51. Section 48 of the Crimes Act 1961 states:

“Everyone is justified in using, in the defence of himself or herself or another, such force as, in the circumstances as he or she believes them to be, it is reasonable to use.”

52. Section 48 requires that the individual officer’s actions be assessed on both a subjective basis as to the perceived circumstances, and an objective basis as to the degree of force. This assessment involves three questions:
- What were the circumstances as Officer A believed them to be?⁴
 - Did Officer A use force against Mr X for the purpose of defending himself or someone else?⁵
 - Was the use of force against Mr X reasonable in the circumstances as Officer A believed them to be?⁶

What were the circumstances as Officer A believed them to be?

53. As discussed in paragraphs 29-36 above, Officer A believed he was about to be assaulted by Mr X, who was squaring up to him and looked like he was ready to fight. Officer A (and the other two officers) say they heard Mr X ask if Officer A wanted to “start something.”
54. Officer A says he had no time to think about his options before being attacked. However, he also said he did not think he had time to step back and shut the door before Mr X attacked him.
55. The CCTV footage indicates Mr X has shifted his weight onto his back foot and has jutted his chin forward in an aggressive manner. His body language, in conjunction with his gestures and facial

⁴ This is a subjective test.

⁵ This is a subjective test.

⁶ This is an objective test.

expression indicate he is challenging the officers. It is conceivable that Mr X's behaviour could quickly have become assaultive.

56. We accept that Officer A genuinely believed that Mr X was aggressive and could have struck him at any time. He was also aware that Mr X was focused on him, and that his two colleagues were standing behind him, on the other side of the cell doorway.
57. We also consider that Officer A had not thought about the wider options available to him to deal with Mr X's potential aggression before re-entering the cell or while speaking to Mr X, other than to step back out of the cell and close the door on Mr X. Officer A was aware of his position in an open doorway, and the presence of two colleagues close at hand. Consequently, this was not the only option available to Officer A.

Did Officer A use force against Mr X for the purpose of defending himself or someone else?

58. Officer A says he acted to prevent an attack that was one or two seconds away. We accept that he acted in part to protect himself from this.
59. However, we think Officer A also acted out of frustration and took the opportunity to expedite removing Mr X from the cell. Just prior to grabbing Mr X, Officer A had entered the cell doorway, and can be seen shaking the plastic bag and pointing out of the cell with his thumb, as if to indicate Mr X needs to get out of the cell. Officer A told us the cell was needed:

"...so the decision was sort of made, we'd been as patient as we could with him and we needed to move cells so that's the technique that I was, I decided to use that I thought was the best fit for that situation."

Was the use of force against Mr X reasonable in the circumstances as Officer A believed them to be?

60. Officer A states he believed he had no option to protect himself other than to grab Mr X around the back of his head and pull him forward onto the ground.
61. We do not accept that Officer A had no option other than a pre-emptive use of force. Officer A was positioned in the doorway, there was nothing stopping him from stepping backwards and allowing Officers B and C, who he knew were standing just outside the doorway and paying close attention to the interaction, to restrain Mr X if he attempted to follow Officer A out of the cell. The cell door did not immediately need to be closed to negate the threat that Officer A perceived Mr X posed to him.
62. We conclude that the force Officer A used was not reasonable or proportionate in the circumstances as he believed them to be. He should have considered that he only needed to step backwards and rely on his colleagues for assistance. Officer A cannot rely on self-defence to justify the force he used.

Was Officer A justified in using force to move Mr X out of the holding cell?

63. As discussed in paragraph 59, we consider that Officer A also acted to expedite the removal of Mr X from the holding cell into a more suitable one. We will consider his actions under section 39 of the Crimes Act 1961.
64. Section 39 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, unless the sentence, warrant, or process can be executed, or the arrest made by reasonable means in a less violent manner. “*Necessary*” force in this context is generally accepted as meaning “*reasonable*” and “*proportionate to the degree of force being used to resist.*” This is a purely objective test.
65. We consider that a “*process*” includes moving a detainee in Police custody from one cell to another for justifiable and legitimate reasons.
66. The Authority must determine:
- a) whether Officer A believed on reasonable grounds that Mr X was using force to resist the reasonable Police process; and if so
 - b) whether the degree of force used to overcome that resistance was proportionate and reasonable in the circumstances as Officer A reasonably believed them to be.
67. It was reasonable for Officer A and his colleagues to ask Mr X to move into a more suitable cell. There was no toilet or bed in the holding cell for an overnight stay. Further, the holding cell needed to be cleaned for re-use. We note that the cleaning process would have taken some time. The presence of blood required a contractor to come in and conduct a biological clean.
68. Mr X objected to putting a plastic bag over his cut foot while he was escorted to another cell, in the absence of a proper dressing. On balance, we accept Police’s statement that medical treatment was offered and refused, although the offer was not noted on the custody record (as it should have been). Mr X admits not being able to remember if he was offered medical treatment at this stage. We are satisfied that the plastic bag was not offered as a medical treatment, rather as temporary protection while Mr X walked between cells.
69. Officer A says that Mr X’s increased aggression happened immediately after he and Officer B told him that he had to move cells. We accept that Officer A acted, in part, to overcome Mr X’s threat of violence to resist his removal from the cell, and that Officer A reasonably believed that Mr X’s resistance was to prevent Police from carrying out this action.

Was the force used reasonable and proportionate?

70. The Authority accepts that it is sometimes necessary to use force to move detainees in the custody area. This may be planned before entering the cell, or in response to the immediate circumstances.

71. Officer A says the officers had not planned to forcefully remove Mr X from the cell when he went to speak to him a second time.
72. Officer A attempted to engage with Mr X for an extended period when he came into custody. He gave him time to calm down and then spoke with him again, explaining why a move was necessary and, the offer of medical assistance having been refused, offering the plastic bag. Officer A invested considerable time in trying to persuade Mr X to co-operate, but instead Mr X became more irrational and aggressive.
73. Against this background, we consider it was reasonable for Officer A to use a technique to pull Mr X to the ground and out of the cell. He knew two other officers were in position to help him securely restrain and move Mr X. Mr X could not stay in the holding cell indefinitely, and he had been given ample time to comply with a reasonable request.
74. It would have been best practice if Officer A had told Mr X that he would be forcefully removed from the cell if he did not comply. Mr X was never explicitly told this. If he had been, it is possible that he would have reconsidered his position and complied, given the presence of three officers. Police were in control of the custody area, and there was no immediate urgency to move Mr X. There was time to warn Mr X then allow him to consider his response.
75. Officer A can rely on section 39 of the Crimes Act to justify his actions. It would have been best practice if he had first warned Mr X that he would be forcefully removed from the cell if he did not co-operate.

Restraint of Mr X after he was pulled to the ground

76. Once Officer A grabbed Mr X and pulled him to the ground, there was a struggle. Officers A, B, C, D and E were all involved in handcuffing Mr X and transferring him to a different cell. Officers A and D applied specific force during this process.

CCTV footage of Mr X being restrained

77. After grabbing Mr X in the holding cell, Officer A pulls Mr X's jersey over his head and pulls him to the ground. Officer A then holds Mr X's neck area and drags him forward approximately a metre across the floor. This action was not necessary for the purpose of Officer A defending himself but was essential to remove Mr X from the cell. Officers B and C move in behind Mr X and bend down to help restrain him.
78. Mr X is on his knees as Officer A struggles to get him flat on the ground. At this point Mr X reaches up and grabs Officer A's testicles. Officer A reacts by jumping back and dropping his bodyweight onto the ground while his arm is around Mr X's head and neck area. The three officers continue to struggle to get Mr X flat on the ground.
79. Mr X reaches out again for Officer A's testicles. Officer A regains his feet and forcefully pulls Mr X onto his right side. Officer A then uses his foot to kick Mr X's legs underneath him and pulls him onto his back so he is flat on the ground. In the process, Officer A pulls Officer C down with Mr X as well. Officer D arrives to assist.

80. Mr X reaches for Officer A's leg, but Officer A's back is to the camera, so it is unclear whether contact is made or, if it is, where. Officer A assures us that contact was made with his testicles.
81. Officer A drops his bodyweight onto Mr X and appears to strike him with his forearm to the upper body or head area. Mr X continues to struggle.
82. Officer A strikes Mr X's head again with his forearm. While this is happening, Officers B and D try to control Mr X's lower body and Officer C tries to restrain Mr X's arms.
83. After this strike, Mr X extends his arm and appears to be reaching for Officer A's leg. Officer A stands on Mr X's upper arm as this is happening.
84. Officer E arrives and stands back to observe the situation.
85. Officer A strikes Mr X to the side of his head with a closed fist, causing his head to bounce off the concrete floor. To do this, Officer A appears to push Officer C's hands out of the way, so he has clear access to Mr X's head.
86. Mr X grabs at Officer A's groin with his left hand and Officer A takes hold of Mr X's hand and places his knee on Mr X's upper arm. With his other hand, Officer A holds Mr X down by the throat in what appears to be a chokehold.
87. Officer E steps in to take hold of Mr X's left hand. Officer C has control of Mr X's right hand while Officers B and D are controlling Mr X's legs.
88. Officer E attaches the handcuffs to one wrist and the officers roll Mr X onto his front.
89. Officer A again strikes to the side of Mr X's head with his forearm, causing his head to hit the concrete floor. Officer A keeps his forearm and elbow on the side of Mr X's head and appears to apply pressure to prevent him from moving his head.
90. Officer D places her entire bodyweight on Mr X by standing on his buttocks while holding onto Officers B and C for support. She appears to bounce up and down to apply more force to Mr X.
91. The handcuffs are applied and Officer A places his hand on the side of Mr X's head as it is resting on the ground. It appears that he applies some of his weight to the side of Mr X's head.
92. Officer A removes his hand and shortly afterwards appears to check Mr X's ear and the side of his head.
93. From here, Mr X is moved onto his side, pulled up to his knees and then brought up to standing. He is walked to another cell with the assistance of all five officers.
94. Mr X is placed on the cell floor by the officers. The full view is obstructed by an officer but does show Mr X having his handcuffs removed and the officers leave the cell.
95. It takes Police 1 minute and 40 seconds to restrain Mr X, from the time Officer A grabs Mr X until he is handcuffed.

Officer A's account of his actions

96. Officer A says Mr X was strong and constantly resisting, and it took four or five officers to restrain him properly.
97. He felt Mr X pinching the inside of his leg and grabbing his testicles *"multiple times"*. This was deliberate, extremely painful, and he feared permanent damage. He told Mr X to let go and struck out at Mr X to get him to release his grip from his testicles, which he believed worked. He says he struck Mr X in the face as a distraction technique, as there was nowhere else that he could have connected with.
98. Officer A says that at one point, Mr X had hold of his leg and he believed Mr X was going to bite him, so he struck him to prevent this. Mr X then reached up and grabbed him, which was when he managed to grab Mr X's arm and eventually roll him onto his front.
99. Officer A says he thought Mr X was going to spit at Officer E, so he held Mr X's head down to prevent this from happening.
100. When asked about the level of force he used, Officer A says he did not strike as hard as he was able to, and that he *"only used the necessary force that [he] felt [he] needed to try and get him to stop doing what he was doing"*.
101. When Officer A was shown the CCTV and asked why he put his hand around Mr X's throat, he says he thought his hand was on Mr X's torso or up around his chest and he was not intentionally going for his neck or throat. He explained: *"I was just trying to hold him down"*.
102. When asked if the strikes to the head were a reasonable use of force, Officer A told the Authority: *"I didn't have much else to strike and it's a trained technique"*. He says Mr X did not lose consciousness.

Officer D's account of her actions

103. Officer D says she was trying to control Mr X's torso and leg area. She applied pressure from her knees to his backside to stop him from rotating his hips. However, she was unable to control Mr X this way, so she applied more pressure by standing on his buttocks with both feet, while holding onto Officers B and C for balance. Officer D denies bouncing on Mr X, stating Mr X was bucking and she was attempting to keep her balance.
104. Officer D says because she is smaller than Mr X, the force she applied to control him had no effect whatsoever. She commented that, in such circumstances, a leg lock would normally be used but because of the cut to Mr X's foot, this was not possible.

Mr X's explanation for his actions

105. Mr X does not dispute that he grabbed Officer A's testicles. However, he says he was acting *"without thinking"* in response to being thrown on the ground and he *"didn't know what he was trying to achieve."*

106. CCTV footage shows Mr X was forced down onto his knees with his head near the ground. His jersey has been pulled over his head by Officer A so he can no longer see, and this is when he reaches out with his arm and grabs at Officer A for the first time.
107. Mr X makes three or four further attempts to grab at Officer A's groin area while he is being restrained. However, Officer A's body is between Mr X and the camera, so it is difficult to see exactly what happens. Officer D says that she saw Mr X with his right arm around Officer A's thigh, and Officer A strike Mr X once to the side of the head.

Were officers justified in their use of force to restrain Mr X once removed from the cell?

108. Mr X appears to be strongly resisting the officers, and considerable force is used to get him onto the ground and then onto his stomach so he can be handcuffed. It takes five officers to achieve this. Within this context, Officer A's initial strikes were justifiable as a distraction to stop Mr X from grabbing his testicles and from resisting generally.
109. However, from the point that Officer A punched Mr X's head with a closed fist causing it to hit the ground (as described in paragraph 85) onwards, Officer A uses a level of force beyond what is required to protect himself, his colleagues and restrain Mr X. The force appears to be motivated by anger.
110. Officer A delivered strikes that caused Mr X's head to hit the ground twice. He can be seen holding Mr X around the throat while he is lying on the ground, and again pushing down on Mr X's neck with his forearm. These actions were unjustified. We do not accept Officer A's explanation that he had no other options available to him in the circumstances, or that he mistook Mr X's neck area for his torso.
111. CCTV footage shows Officer A moving another officer's arm in order to deliver one of the head blows, actively creating the opportunity to use force in this area.
112. Whether he was mistaken in his target or not, Officer A should have taken more care to avoid Mr X's neck and throat.
113. We do not consider it was reasonable or justifiable for Officer D to stand on Mr X's buttocks. This was dangerous and served no useful purpose.

FINDINGS ON ISSUE 1

Officer A was justified in forcefully removing Mr X from the holding cell.

Officer A was initially justified in using force to restrain Mr X, and to protect himself from Mr X grabbing his testicles.

The force Officer A used in the latter part of the struggle, targeting Mr X's head and neck area, was unjustified.

Officer D should not have stood on Mr X.

ISSUE 2: WAS THE NECESSARY MEDICAL CARE PROVIDED TO MR X?

114. Mr X had cut his foot before arriving in custody. The CCTV footage from the holding cell shows bloody footprints all over the cell floor.
115. Mr X was also struck in the head several times while being restrained. He says that afterwards he was going in and out of consciousness.
116. Mr X did not receive any medical care while in Police custody. He went to hospital after he was released from Police custody:
- His cut foot required eight stitches and antibiotics.
 - He had black eyes and ears, bruising to his temple, and a tendon tear in the left shoulder that required steroid injections.
117. As a result of this incident, Mr X took a month off work. On his return, he undertook light duties because of the impact the injuries had on his ability to do his job.
118. Police have a duty of care to detainees in their custody and must ensure a detainee receives necessary medical care.
119. We have accepted that Police offered Mr X medical treatment for his cut foot while in the holding cell, but he refused it.
120. After Mr X was moved to a new cell, Officer A says he made Officer B (his supervisor) aware of the force that was used to restrain Mr X, and Officer B reviewed the CCTV footage to see what happened. None of the officers believe that Mr X lost consciousness at any point. We have viewed the CCTV footage and it is not possible to tell if Mr X lost consciousness.
121. Considering the open wound to Mr X's foot and the risk of concussion from multiple strikes to his head (which were clearly visible on the CCTV footage), a doctor should have been called at this point to assess Mr X's injuries, regardless of his earlier refusals. Police failed to provide appropriate medical treatment.

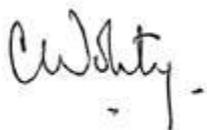
FINDING ON ISSUE 2

Mr X was not provided with necessary medical treatment while in custody. His foot and head injuries should have been assessed by a doctor.

Subsequent Police Action

122. In March 2022, Canterbury Police District circulated a directive, which states:

“If a person taken into Police custody has immediately prior to, during or after their arrest received one or more heavy blows/strikes to the head area, a health professional must be consulted to assess the need for any additional medical intervention and care.”

A handwritten signature in black ink, appearing to read 'C. Doherty', with a horizontal line underneath.

Judge Colin Doherty

Chair
Independent Police Conduct Authority

7 June 2022

IPCA: 20-5363

About the Authority

WHO IS THE INDEPENDENT POLICE CONDUCT AUTHORITY?

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

We are not part of the Police – the law requires us to be fully independent. The Authority is overseen by a Board, which is chaired by Judge 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?

Under the Independent Police Conduct Authority Act 1988, the Authority receives and may choose to investigate:

- complaints alleging misconduct or neglect of duty by Police;
- complaints about Police practices, policies and procedures affecting the complainant in a personal capacity;
- notifications of incidents in which Police actions have caused or appear to have caused death or serious bodily harm; and
- referrals by Police under a Memorandum of Understanding between the Authority and Police, which covers instances of potential reputational risk to Police (including serious offending by a Police officer or Police actions that may have an element of corruption).

The Authority's investigation may include visiting the scene of the incident, interviewing the officers involved and any witnesses, and reviewing evidence from the Police's investigation.

On completion of an investigation, the Authority must form an opinion about the Police conduct, policy, practice or procedure which was the subject of the complaint. The Authority may make recommendations to the Commissioner.

THIS REPORT

This report is the result of the work of a multi-disciplinary team 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.



Mana Whanonga Pirihimana Motuhake

PO Box 25221, Wellington 6140

Freephone 0800 503 728

www.ipca.govt.nz
