

Independence

trustworthiness

accountability

vigilance

integrity

Use of Police dog during the arrest of Blair Taylor

April 2014



April 2014

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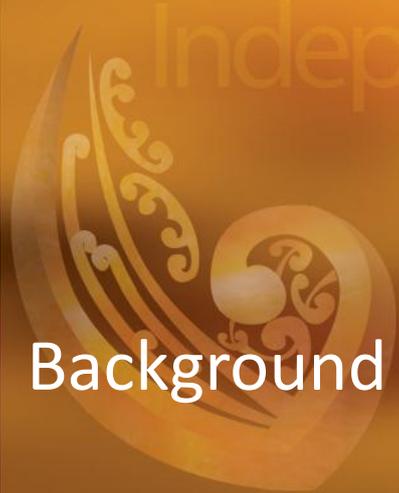


Introduction

INDEPENDENT POLICE CONDUCT AUTHORITY

1. On the evening of 2 April 2011, Police were informed that a burglary was in progress at a residence in Tay Street in the Invercargill CBD. Police Dog Handler, Officer A, observed the offender, later confirmed as Mr Blair Taylor, inside the premises upon his arrival at the scene. Mr Taylor decamped from the address after being challenged by Officer A but was intercepted by Officer B, who placed Mr Taylor under arrest.
2. Mr Taylor, who had consumed a large quantity of alcohol in the two days preceding the incident, was uncooperative. Officer B's attempts to engage with and control Mr Taylor were further complicated by the arrival of the Police dog that, while restrained on a lead by Officer A, barked, jumped, and lunged at Mr Taylor. Mr Taylor backed away from the dog and ignored instructions given to him by the officers to get onto the ground. Mr Taylor was then tackled from behind by Officer C and during the subsequent struggle the Police dog took a bite hold on Mr Taylor's upper right arm.
3. Mr Taylor was taken to the footpath by Officers B, C and D, and several other officers assisted to subdue and secure Mr Taylor in handcuffs. The Police dog maintained a bite hold on Mr Taylor's arm during this process, which took almost a minute. Mr Taylor was then searched (a small ornament was located on his person) before being transported by Police to hospital where he underwent surgery on the bite wound under general anaesthetic. On 24 June 2011, Mr Taylor was sentenced to eight months imprisonment after pleading guilty to burglary and resisting arrest.
4. Mr Taylor's arrest and the deployment of the Police dog were captured on Police-monitored CCTV.
5. The Police investigation into the incident determined that there was no evidence to support criminal charges against Officer A; that the force used by him was reasonable under the circumstances; and that the arrest could not have been effected in a less violent manner due to the level of resistance displayed by Mr Taylor. When that view was reported, concerns were expressed by the Authority about the outcome of the Police investigation and a request made for the findings to be re-examined. Police conducted a review of the Police investigation and determined that no criminal or disciplinary proceedings against any officer were warranted.

6. Although this determination included a decision that no disciplinary proceedings should be taken, the Police investigation was conducted primarily as a criminal one and, therefore, focused on whether there was sufficient evidence to warrant a criminal prosecution. Accordingly, it considered whether there was sufficient evidence to prosecute the case '*beyond reasonable doubt*'.
7. In contrast, the Authority's investigation had a broader focus. It considered whether the actions of any officers amounted to misconduct or breached Police policy or procedure, justifying disciplinary proceedings. The Authority's findings are, therefore, based on the lesser standard of the '*balance of probabilities*'.



Background

INDEPENDENT POLICE CONDUCT AUTHORITY

SUMMARY OF EVENTS

8. At 10.23pm on Saturday 2 April 2011, Police were informed that a burglary was in progress at a residence above a commercial property in Tay Street in the Invercargill CBD. Police Dog Handler, Officer A, arrived at the scene at approximately 10.36pm and, having climbed on to the first storey roof at the rear of the premises with his Police dog, he observed an individual, later confirmed as Mr Blair Taylor, inside the property.
9. Officer A issued a verbal challenge, warning Mr Taylor that the dog would be released if he did not come out. After appearing in a doorway and briefly speaking with Officer A through a window, Mr Taylor subsequently turned and disappeared from view. At 10.39pm, Mr Taylor was observed leaving the address from the Tay Street entrance by Officer B, who approached Mr Taylor and attempted to engage him in conversation. Mr Taylor was non-responsive and refused to remain where he was. Suspecting that Mr Taylor was the offender sought, Officer B placed him under arrest.
10. At 10.39:28, Officer A and his dog, having received information that Mr Taylor had exited the premises, came running onto Tay Street from an alleyway towards Mr Taylor, who was being held by Officer B. Mr Taylor and Officer B immediately shied away from the fast approaching Police dog. Mr Taylor continued to back away as the dog (restrained on a lead by Officer A) barked, jumped, and lunged at him, and he failed to comply with the officers' instructions to get onto the ground.
11. At 10.39:37pm, Officer C ran across Tay Street and tackled Mr Taylor from behind in an unsuccessful attempt to get him onto the ground. Officer B and Officer C were both struggling with Mr Taylor at this point and, at 10.39:42pm, the Police dog gripped onto Mr Taylor's upper right arm. At 10.39:46pm, Mr Taylor was taken to the footpath by Officers B, C and D, as several other Police staff looked on.
12. Officers C and D secured Mr Taylor with the subsequent assistance of Officers E and F. During this process, the Police dog continued to hold Mr Taylor's arm, dragging him between one and two metres across the footpath. The Police dog was removed from Mr

Taylor's arm 54 seconds later, at 10.40:36pm. Police staff finished securing Mr Taylor in handcuffs at 10.40:50pm. Mr Taylor was placed in a Police vehicle by Officers F and G at 10.42pm, where his pockets were searched. Mr Taylor was found to be in possession of a small ceramic and cane ornament, later identified as having come from the scene of the burglary.

13. Mr Taylor was immediately taken to Southland Hospital where he was admitted and, subsequently, underwent surgery to repair the wound sustained from the Police dog bite. He was assessed as being under the influence of alcohol and later admitted to having consumed a large quantity of alcohol in the two days preceding the incident. Mr Taylor was discharged into Police custody on 4 April 2011 and, on 24 June 2011, having pleaded guilty to burglary and resisting arrest, he was sentenced to eight months imprisonment.
14. Mr Taylor's arrest and the deployment of the Police dog were captured on Police-monitored CCTV. The Authority's interviews with the Police officers involved, along with this CCTV footage, assisted the Authority in forming its opinions.

COMPLAINANT'S VIEWS

15. At an initial Police interview, no concerns were expressed by Mr Taylor about the manner in which he was apprehended by Police. However, during subsequent interviews with Police and the Authority, Mr Taylor, while acknowledging his resistance during the arrest process, complained that it was unnecessary to use the Police dog on him given the number of Police officers present.

POLICE INVESTIGATION & FINDINGS

16. A Police investigator was assigned to conduct a criminal investigation into the incident. Officer A was stood down from duty while this was undertaken.
17. During the Police investigation, Officer A submitted that Mr Taylor appeared to be attempting to conceal a metal object in his hand while inside the address, and that he formed the belief that Mr Taylor was in possession of a knife when Mr Taylor refused to show him what was in his hand. Officer A stated that he issued the command for the Police dog to bite and hold Mr Taylor when he became concerned that Mr Taylor appeared to be attempting to access the knife from the front of his trousers during the struggle with Officer B and Officer C. Officer A asserted that these factors justified his decision to deploy the Police dog as he was acting in defence of himself and others, pursuant to section 48 of the Crimes Act 1961 (defined in paragraph 58).

18. Officer A further submitted that he considered disengaging the Police dog earlier, but remained concerned that Mr Taylor was still in a position where he could access the knife and that he therefore continued to be a risk to the officers attempting to restrain him.
19. At the conclusion of his investigation, the Police investigator determined that there was no evidence to support criminal charges against Officer A; that the force used by him was reasonable under the circumstances; and that the arrest could not have been effected in a less violent manner due to the level of resistance displayed by Mr Taylor.
20. Police's National Coordinator for Police dogs reviewed the Police file and CCTV footage. In a report of 2 June 2011, he concluded that deploying the Police dog to bite Mr Taylor was justified. In his view, Officer A was forced to do so having lost control of the situation due to the actions of Officer C. The Coordinator determined that the Police dog could have been disengaged from Mr Taylor on two earlier occasions and, although he considered this an error of judgement on the part of Officer A, he nevertheless considered that the use of force was reasonable given the difficulties Police staff were having in restraining Mr Taylor, and Officer A's belief that Mr Taylor was in possession of a knife.
21. The then Southern District Commander supported the findings of the Police investigation.
22. In March 2012, after reviewing the Police file, the Authority expressed concerns about the deployment of the Police dog during this incident to the Commissioner of Police. The Authority asked Police to re-examine the findings of the Police investigation.
23. In May 2012, the senior Police officer, who was appointed to review the Police investigation, concluded that there was insufficient evidence to support or warrant the laying of criminal charges against Officer A, and that a Code of Conduct investigation against other officers was also unwarranted. On 25 May 2012, the Police Commissioner informed the Authority that he was satisfied that the recommended outcome was consistent with the available evidence and that no further action was necessary.



The Authority's Investigation

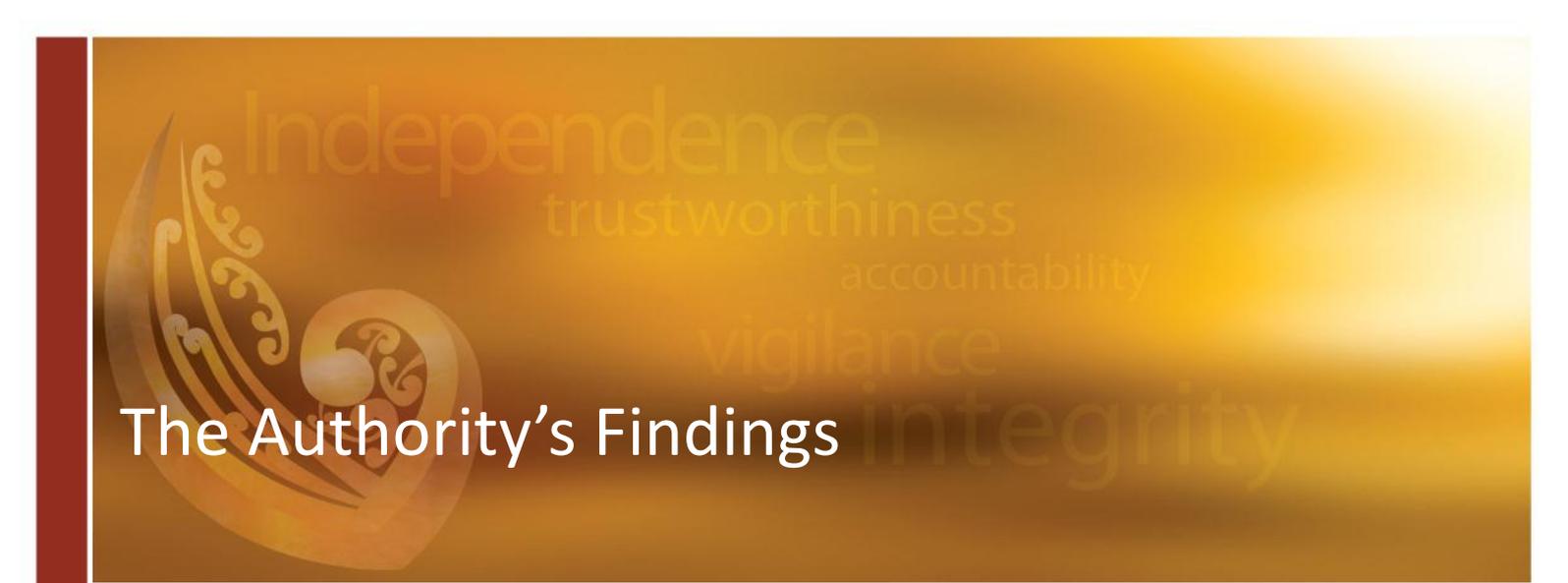
INDEPENDENT POLICE CONDUCT AUTHORITY

THE AUTHORITY'S INVESTIGATION

24. On 5 April 2011, Police notified the Authority of the incident in accordance with section 13 of the Independent Police Conduct Authority Act 1988 (the Act), and advised that Police had commenced an investigation pursuant to section 22(1) of the Act. The Authority confirmed to Police on 13 April 2011 that it would independently investigate the matter pursuant to section 12(1)(b) of the Act.
25. During the investigation, the Authority has independently interviewed Mr Taylor, the seven Police officers directly involved in the incident, a civilian [now a sworn Police officer] participating in 'SCOPE' (a type of work experience, which is a prerequisite to joining Police), Officer A's supervisor, and the property owner. The Authority has independently reviewed the CCTV footage, including a copy digitally enhanced by Police's Electronic Crime Laboratory.
26. The Authority has also reviewed and analysed the entire Police file in relation to the Police investigation into the incident, including jobsheets, notebook entries, and statements from officers, copies of radio transmissions, Officer A's Tactical Options Report, and Mr Taylor's medical reports. The Authority has conducted a thorough review of relevant legislation and Police policy applicable at the time of the incident.

ISSUES CONSIDERED

27. The Authority's investigation considered the following issues:
 - 37.1 Was the force used by Officer C to tackle Mr Taylor appropriate in the circumstances?
 - 37.2 Was the force used by Officer A in initially deploying the Police dog appropriate in the circumstances?
 - 37.3 Was the continued deployment of the Police dog by Officer A appropriate in the circumstances?



The Authority's Findings

INDEPENDENT POLICE CONDUCT AUTHORITY

ISSUE 1: WAS THE FORCE USED BY OFFICER C TO TACKLE MR TAYLOR APPROPRIATE IN THE CIRCUMSTANCES?

28. When assisting his colleagues in executing Mr Taylor's arrest, Officer C was only legally entitled to use the force necessary to overcome the resistance exhibited by Mr Taylor (see paragraph 56). The Police Tactical Options Framework (outlined in more detail starting at paragraph 64) sets out a range of options available to Police in responding to a situation, depending on an officer's perceived cumulative assessment of the actions of an offender. The framework's overriding principle, emphasised in Staff Safety Tactical Training (SSTT) applicable at the time, is that minimum force must be used to reach an objective.
29. Officer C reported that he stopped and exited his vehicle when he saw Mr Taylor trying to pull away from Officer B. He maintained that he ran across the road and assisted Officer B by grabbing hold of the right side of Mr Taylor, who was struggling to get away.
30. CCTV footage reveals that Officer C, in fact, rushed at Mr Taylor and tackled him from behind in an apparent effort to secure him. The footage further shows that Mr Taylor was not acting in a manner that warranted such a response, as he was reacting to the arrival of the Police dog, and not struggling to get away from Officer B. In that regard, the Authority considers Officer C acted prematurely and without an adequate appreciation of the situation.
31. It is evident that Officer C's approach was unnecessary in the circumstances and not only negated the use of other, less violent, tactical options but was likely the catalyst for the escalation of the matter. Indeed, Officer A reported that he considered Mr Taylor would have eventually complied with instructions to get on the ground had he had the opportunity to continue communicating with him. Given that Officer C could have used more reasonable means to engage with Mr Taylor, the Authority considers that, on the balance of probabilities, his actions in tackling Mr Taylor amounted to an excessive use of force.

FINDING

Officer C should not have tackled Mr Taylor.

ISSUE 2: WAS THE FORCE USED BY OFFICER A IN INITIALLY DEPLOYING THE POLICE DOG APPROPRIATE IN THE CIRCUMSTANCES?

32. As is the case when any officer uses force against an individual, a Police dog handler is required to comply with the Crimes Act 1961 and Police policy, when deploying a Police dog as a tactical option (outlined in more detail starting at paragraph 69). In that regard, Officer A, like Officer C, was legally entitled to use only the force necessary to effect Mr Taylor's arrest.
33. Officer A submitted in his Tactical Options Report (TOR) that immediately upon arriving onto Tay Street, he observed Mr Taylor "*actively resisting*" (defined in paragraph 67) Officer B, and that "*it was clear to me empty hand tactics and verbal communication was not working nor would it work.*"
34. CCTV footage reveals that, while Mr Taylor was not being cooperative, he was not actively resisting Officer B when Officer A's arrived on the scene. Officer A's assessment of the situation failed to appreciate the impact of the Police dog's presence, as CCTV footage also reveals that Mr Taylor's subsequent actions, in pulling away from Officer B, appear to be a natural response to the approach of the Police dog. It is apparent that the arrival of Officer A and the Police dog impacted on Officer B's ability to effectively communicate with Mr Taylor.
35. At Police interview, Officer A stated, "*My immediate focus was to get him [Taylor] on the ground, but whilst I was trying to do that the second Constable [Officer C] came across the road which in effect escalated what was happening and what I was trying to achieve.*" While Officer A's account of the incident indicates that it was the actions of Officer C rather than Mr Taylor that precipitated the deployment of the Police dog, Officer A asserted that he was acting in defence of himself and his colleagues, in line with section 48 of the Crimes Act 1961 (outlined in paragraph 58). As referred to in paragraph 17, Officer A stated that (having earlier formed the belief that Mr Taylor was in possession of a knife) he became concerned that Mr Taylor was attempting to retrieve the knife from his pants during the "*struggle*" with Officer C, and that this was his primary justification for deploying his Police dog.
36. Officer A reported that as he was getting down from the roof he told Officers E and F that Mr Taylor had fled the scene and that he thought Mr Taylor had a knife. This was not corroborated by Officer E, who maintained that Officer A advised only that Mr Taylor had run from the scene of the burglary.

37. Officer F reported to Police that he did not hear anything about a knife during the incident, although he heard Officer A yell something as he descended the roof, which Officer F was unable to make out. In contrast, Officer F informed the Authority that, either as he descended the roof or as Police staff were securing Mr Taylor, Officer A *“mentioned something like he [Mr Taylor] had something in his hand or he thought he saw something in his hand.”* Given Officer F’s previous opportunities to report this (in a job sheet and three Police interviews) and the absence of corroboration from any other officers involved in securing Mr Taylor (including Officer A), the Authority has placed no weight on these comments and has relied instead on his earlier reports to Police.
38. Officer A did not challenge Mr Taylor as to his possession of a knife when engaging with him on Tay Street, nor at any time did Officer A inform the other officers involved in the arrest process of his belief that Mr Taylor had a knife and direct them to stand clear. Officer A stated, *“It was my intention to call on the radio to alert staff about the knife when he did the runner but the radio traffic started so I just wanted to get down from the roof to chase the offender.”* Even if this is accepted, Officer A disregarded a further opportunity to radio his concerns, when he responded to advice that Mr Taylor had been located on Tay Street by stating only, *“Where is he? Where is he?”*
39. Information and explanations provided by Officer A reveal that following his initial encounter with Mr Taylor, his singular focus became Mr Taylor’s apprehension, and that his preoccupation with this may have come at the expense of good, sound, decision-making in accordance with his training and best practice.
40. The Authority considers that Officer A, an Armed Offenders Squad (AOS) member and officer with 15 years of service, should have warned Officer B of the possible existence of a knife upon his arrival at the scene, and warned his colleagues as they attempted to restrain Mr Taylor and as they led Mr Taylor to the Police vehicle (where a personal search was to be conducted). All of the officers interviewed by the Authority stated that they would have approached the situation differently had they been warned that Mr Taylor possessed a knife.
41. The only independent evidence that Officer A saw Mr Taylor in possession of an object that could have been a knife came from Officer F, who heard him call out something but could not determine what was said. Officer A did not make any subsequent attempt to report his suspicion to other officers, notwithstanding multiple opportunities to do so. If he suspected that Mr Taylor had a knife, Officer A was negligent in failing to warn his fellow officers, putting them at risk of serious harm. However, while the Authority remains concerned about the courses of action taken by Officer A before deploying the Police dog, it is unable to reach a clear conclusion on the available evidence that Officer A’s belief that Mr Taylor was in possession of a knife was not genuinely held. It is therefore unable to find that the initial deployment of the Police dog was unjustified.

FINDINGS

Officer A should have warned other Police staff of his belief that Mr Taylor was in the possession of a knife, and he was negligent in not doing so.

In the circumstances, the Authority is unable to reach a clear conclusion that the initial deployment of the Police dog was unjustified.

ISSUE 3: WAS THE CONTINUED DEPLOYMENT OF THE POLICE DOG BY OFFICER A APPROPRIATE IN THE CIRCUMSTANCES?

42. The Police dog had a bite hold on Mr Taylor for approximately 50 seconds, during which Mr Taylor was subjected to a prolonged bite that carried enough force to penetrate his woollen lined leather jacket and cause a serious injury to his upper right arm.
43. Officer A stated that he gave consideration to disengaging the Police dog shortly after Mr Taylor was taken to ground, and several times subsequent to that, but that officers were struggling to secure Mr Taylor's left arm from under his body and he was concerned Mr Taylor had possession of or was attempting to retrieve the knife. This is inconsistent with both the CCTV footage and information provided by other Police staff during interviews conducted by the Authority, which identifies that Officer D maintained full control of Mr Taylor's left arm by pinning it, shoulder to elbow, to the footpath.
44. Officer A stated that he did not disengage the Police dog from Mr Taylor once his left arm was secured because officers were still attempting to control Mr Taylor's right arm. Ironically, at the time the Police dog was deployed, Officer C had hold of Mr Taylor's right arm but stated he released it after Mr Taylor was taken to the footpath because the Police dog "*had control*" of that arm. As no other staff acted to secure Mr Taylor's right arm, the Police dog subsequently dragged him across the footpath (behaviour referred to by Police dog handlers as "*crabbing*"). Although Officer F eventually took hold of Mr Taylor's right wrist, Officer A allowed the dog to maintain a bite hold for a further 10 seconds.
45. The Authority considers that there were tactical options available to Officer A to subdue Mr Taylor other than the continued use of the Police dog. In the circumstances, the Police dog did not provide any value in subduing and restraining Mr Taylor that could not have been provided by the staff present, and its continued use went beyond what was necessary. Indeed, if Mr Taylor exhibited behaviour that evidenced that he was a risk to the safety of Police staff, the Police dog could have been re-deployed. The Authority considers that, on the balance of probabilities, Officer A's actions amounted to an excessive use of force.

46. While Police staff, other than Officer A, had no control over the deployment of the Police dog, they were in a position to question the necessity for its continued deployment. The inaction of Police staff and, indeed, the statements made by them subsequent to the incident, evidence an inadequate understanding of the Tactical Options Framework (as outlined in more detail starting at paragraph 64) and, specifically, the role of a Police dog as a tactical option within that framework.
47. Officer B was the senior officer at the scene and, therefore, the Incident Controller. Officer B recorded in his jobsheet that once Mr Taylor was taken to the ground he *“continued to struggle with officers who had come to assist. I stepped back and instructed other officers who arrived at the scene to move away as there were sufficient staff present, as the dog had control of the offender.”* Similar views were shared by other Police officers, who proceeded on the premise that the Police dog had *“control”* of Mr Taylor.
48. It would have been prudent for the Police officers present to indicate to Officer A that the continued use of the Police dog was unnecessary. However, it is evident that the officers failed to appreciate that, given there were sufficient staff present to subdue and restrain Mr Taylor, the continued use of the Police dog was inappropriate and excessive.

FINDING

Officer A should not have continued to deploy the Police dog.



Conclusions

INDEPENDENT POLICE CONDUCT AUTHORITY

49. On the evening of 2 April 2011, an intoxicated Blair Taylor was arrested by Police after he committed a burglary at a residence in the Invercargill CBD. During his arrest a Police dog was deployed and Mr Taylor sustained a bite injury that required surgery. The Authority has determined, on the balance of probabilities, that the actions of several officers involved in the incident did not comply with applicable law and Police policy.
50. Officer C responded without an adequate appreciation of the situation by tackling Mr Taylor. His actions were premature and excessive, and were the likely catalyst for the escalation of the incident.
51. Although there were significant lapses in judgement demonstrated by Officer A, including his failure to warn his colleagues of his belief that Mr Taylor was in possession of a knife, it could not be found that the deployment of the Police dog was unjustified. However, the continued deployment of the Police dog by Officer A amounted to an excessive use of force given there were sufficient Police staff present to subdue Mr Taylor. His actions contributed to Mr Taylor's injuries.
52. Section 27(1) of the Independent Police Conduct Authority Act 1988 (the Act), requires the Authority to form an opinion as to whether or not any act, omission, conduct, policy, practice or procedure the subject-matter of an investigation was contrary to law, unreasonable, unjustified, unfair or undesirable.
53. The Authority has formed the opinion, pursuant to section 27(1) of the Act, that the following actions were contrary to law:
 - a) Officer C tackling Mr Taylor;
 - b) Officer A's continued deployment of the Police dog.

54. The Authority has formed the opinion, pursuant to section 27(1) of the Act, that the following actions were unjustified:
- a) Officer A's failure to inform other officers of his belief that Mr Taylor was in possession of a knife.

A handwritten signature in black ink, appearing to read 'David Carruthers', written in a cursive style.

JUDGE SIR DAVID CARRUTHERS

CHAIR

INDEPENDENT POLICE CONDUCT AUTHORITY

7 April 2014



Appendix: Applicable Laws and Policies

INDEPENDENT POLICE CONDUCT AUTHORITY

RELEVANT PROVISIONS OF THE CRIMES ACT 1961

Use of force

55. The following provisions were in force in April 2011 and continue to apply.

Use of force by Police

56. Section 39 of the Crimes Act 1961 authorises Police 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 to resist the law enforcement process unless that process can be *“made by reasonable means in a less violent manner”*.

57. Section 40 of the Crimes Act 1961 authorises Police to use force in order to effect a lawful arrest or rescue, to prevent a person from escaping from lawful custody, or to recapture a person who has escaped, but only if these cannot be achieved by *“reasonable means in a less violent manner.”*

Use of force for self- defence or defence of others

58. Section 48 of the Crimes Act states:

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

Excess of force

59. Section 62 of the Crimes Act states:

“Every one authorised by law to use force is criminally responsible for any excess, according to the nature and quality of the act that constitutes the excess.”

APPLICABLE POLICE POLICIES

Use of force

60. The Police have a range of tactical options available to them to help restrain a person, make an arrest or otherwise carry out lawful duties. These range from using handcuffs and open hand tactics to use of batons, OC spray, Tasers and firearms. They include the use of Police dogs.

Manual of Best Practice

61. In April 2011 Police had a chapter in the Police Manual headed “*Use of Force*”. This summarised the legislation on the use of force, described various Police methods where force was applied and explained the requirement to complete a report whenever a certain level of force was used.

62. There was a requirement for a use of force report to be submitted by each individual officer to the relevant supervisor “*at the first opportunity*” when force was used unless:

- *“the force used was trifling; or*
- *the force was used to arrest, search or otherwise deal with a prisoner, provided that the force was no more than moderate and that the prisoner suffered no personal injury”.*

63. If more than one officer was involved in the use of force, each officer had to submit an individual report from his or her own perspective. Additionally, if it was likely that an incident would result in a complaint the officer had to inform the supervisor, “*regardless of the extent of the force used*”. The supervisor would then decide whether use of force report needed to be completed.

Tactical Options Framework

64. At the time of this incident in 2011 all Police officers received Staff Safety Tactical Training in accordance with the *“Tactical Options Framework and Theory.”* The two overriding principles encapsulated in the framework and theory were:
- *“the use of minimum force to achieve an objective; and*
 - *reduction of risk to staff and maximisation of their safety in achieving objectives”.*
65. The Tactical Options Framework sets out a range of options available to Police in responding to a situation, depending on the actions of the offender.
66. Officers may engage the offender or disengage, as appropriate in the circumstances. If the offender is engaged, options range from *“communication”* to *“empty hand”* tactics (such as physically escorting or distracting the offender, and techniques such as kicking or punching) to *“intermediate options”* (that is using equipment unlikely to cause death or grievous bodily harm, but required to establish control of an incident. Examples include OC spray, baton, or Police dog). The final option available to Police would be to use *“lethal force”* which refers to the use of a technique or equipment that may reasonably have the potential to cause grievous bodily harm or death (including firearms, baton strikes to head or neck, and intentional dislocations and breaks).
67. The officer makes a *“perceived cumulative assessment”* of the situation and subject behaviour. This is an assessment from the particular officer’s viewpoint and informs the officer’s response and type of tactical option that may be appropriate. The officer assesses whether the behaviour encountered is:
- Cooperative – where there is a willing, cooperative response to an officer’s lawful request or direction.
 - Passive Resistance – where the subject refuses, with little or no physical action, to cooperate with the officer’s lawful direction. This could be verbal refusal or physical inactivity.
 - Active Resistance – where there is an intensity of resistance beyond simple verbal defiance. This could be pulling away, pushing away or running away.
 - Assaultive – where there is actively hostile behaviour accompanied by physical actions, or intent to cause physical harm. This includes kicking, punching or aggressive body language.
 - Death or Grievous Bodily Harm – where there are actions intended to, or likely, to cause such harm or death. This includes assault with a knife, blunt instrument or firearm.

68. The framework is to assist officers when making decisions about use of force and emphasises that any use of force must be “*reasonable, proportionate and necessary.*” An officer’s actions must though be supported by legal authority to act. The training provided to officers states:

“Officers need to understand that their actions must be sanctioned in law. The Framework is based on the law and will not support any actions outside of the law.”

Use of Police dogs

General Instructions

69. Under General Instruction D182, a dog handler is personally responsible for any use of force by that dog.
70. Before releasing the dog, the handler must be satisfied that the use of force is justified under the circumstances, and must call on the offender to desist unless it is impractical to do so.
71. The handler must also ensure that any force used by the dog is the minimum possible in the circumstances.

Manual of Best Practice

72. The *Police Manual of Best Practice* states that Police dogs may be used as a means of force to apprehend suspects and violent offenders who cannot be apprehended by other means.
73. Police dogs are trained to take controlled bites on the limbs and fleshy parts of the body in order to secure a hold on the suspect. Dog bites can cause damage to clothing, bruises, and more serious wounds.
74. Dogs cannot assess how much force is appropriate in a given situation. They may react independently according to instinct or training and should therefore be used as a last resort.
75. A handler using a dog must consider whether the use of force is justifiable and appropriate in the circumstances. They must also consider the possible consequences and whether there are other members of Police who could carry out the arrest.

76. Before releasing the dog, the handler should warn the suspect. However, in some circumstances – such as armed offender incidents – the suspect should not be warned.
77. Following apprehension, the dog should “*generally*” be removed as quickly as possible to avoid unnecessary injury.
78. If the suspect has been bitten, all possible steps must be taken to ensure that he or she receives medical attention as soon as practicable.

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.

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 Sir David J. Carruthers.

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 has 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 complaints alleging misconduct or neglect of duty by Police, or complaints about Police practices, policies and procedures affecting the complainant;
- 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 can make findings and recommendations about Police conduct.



IPCA

Independent Police Conduct Authority
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