

# Use of force in Counties Manukau District Custody Unit

## INTRODUCTION

1. On the evening of 28 April 2017, Police arrested Mr X for breaching his bail conditions and took him to the Counties Manukau District Custody Unit. While being escorted to a cell, custody staff used force to restrain Mr X, which resulted in his head striking a wall.
2. Mr X complained to the Authority that Police used excessive force against him while he was in Police custody. The Authority conducted an independent investigation. This report sets out the results of that investigation and the Authority's findings. In addition to examining whether the use of force against Mr X was justified, the Authority considered issues relating to Mr X's detention and how Police managed him while he was in custody.

## BACKGROUND

3. This section of the report provides a summary of the incident and the evidence considered by the Authority. When quoting or describing the accounts of any officer, complainant or witness, the Authority does not intend to suggest that it has accepted that particular account.
4. Analysis of the evidence and explanations of where the Authority has accepted, rejected or preferred that evidence is reserved for the 'Authority's Findings' section.

### Summary of events

#### *Arrest*

5. Mr X and Mr Y lived a few houses away from each other, on the same South Auckland street. At about 8.45pm on Friday, 28 April 2017, Mr X allegedly confronted Mr Y in the street where they lived. Mr Y's partner called Police.

6. Officers A and B arrived at Mr Y's address at about 9.40pm.<sup>1</sup> Mr Y told the officers that Mr X had assaulted him, and had been holding two cans of premixed vodka drink at the time.
7. A check of the Police database by Officer B revealed that Mr X was subject to bail conditions, including a condition not to drink alcohol, and a curfew requiring him to remain at his address between the hours of 7pm and 7am.<sup>2</sup>
8. Officer B decided to arrest Mr X for breaching his bail conditions. Officer B knew Mr X had tried to evade arrest in the past, so called for another Police unit to assist. Officers C and D arrived outside Mr Y's address shortly afterwards.
9. The four officers went to Mr X's address. Mr X was outside, holding a can of premixed vodka drink. Officer B observed that Mr X smelt of alcohol and had glazed eyes. He placed Mr X under arrest for breaching the alcohol and curfew conditions of his bail.
10. Officer B handcuffed Mr X and put him into the back seat of his patrol car. He advised Mr X of his rights under the New Zealand Bill of Rights Act 1990. Officer B said Mr X was intoxicated, and disorderly rather than aggressive:

*"I remember [Mr X] was saying swear words towards [Officer C] about saying he was Indian and stuff like that but ... I can't remember any mention of he was going to beat him up or anything like that."*

11. Mr X admitted drinking alcohol, but refused to take a breath screening test. Officer A drove the patrol car to the Counties Manukau custody unit. Officer B sat in the back with Mr X. Officer B described Mr X as being *"really chatty"* on the journey.

#### *Arrival at the custody unit*

12. The patrol car arrived at the custody unit's sally port at 10.24pm.<sup>3</sup> CCTV footage shows that Officer B opened the rear left door and Mr X got out of the car without assistance. He was handcuffed behind his back. He was unsteady on his feet as he kicked off his shoes.
13. Custody Officers D and E were stationed in the receiving area and observed the sally port CCTV monitors.<sup>4</sup> Custody Officer D said he thought Mr X was drunk and uncooperative, *"...so I thought I'd go out and sort of help."* Custody Officer D walked into the sally port area as Officer B was removing Mr X's handcuffs so as to remove Mr X's jacket, and Custody Officer E entered the sally port a minute or so later.
14. Officer B completed a full pat-down search of Mr X. Mr X removed his belt and handed it to Officer B, who placed it in a property storage bag. Custody Officers D and E saw Officer B

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<sup>1</sup> An index of the officers referred to in this report can be found in Appendix One.

<sup>2</sup> A mobility device is either an iPad or iPhone that Police officers carry in their vehicles and can use to access the Police database.

<sup>3</sup> A sally port is a secure, controlled entryway to a Police station where officers bring detainees in to be searched and received into Police custody.

<sup>4</sup> Custody officers (or 'authorised officers') are non-sworn Police employees who have responsibility for managing the health, safety and secure custody of detainees. Temporary constables are sworn Police employees who have the same responsibilities as authorised officers, with additional powers of arrest.

checking Mr X's neck under his shirt, and confirming he was not wearing any necklaces, belts or other items that could have created a safety risk to Mr X or another person. The custody officers did not notice any injuries to Mr X.

15. CCTV recordings from the custody unit do not record sound, but from his gestures and movement, Mr X appeared to be generally cooperative and quite talkative during the search.
16. Custody Officer D held the door of the holding cell open for Mr X, and Officer B directed him to go in. Mr X talked to the officers for a moment, and then walked into the cell, unassisted. CCTV footage shows Mr X speaking with Custody Officer D, and touching him on the arm in a friendly way as he entered. Mr X went into the holding cell at 10.27pm.
17. Custody Officers D and E remained in the sally port area, and observed a second detainee arriving and being searched. They followed an officer from this second car into the receiving area at 10.30pm.

#### *Processing Mr X into custody*

18. Officer B took Mr X's property to the receiving area for photographing. Officer F, the custody sergeant supervising the night shift, entered Mr X's details in the electronic custody module (ECM).<sup>5</sup>
19. Custody Officer D told the Authority "[Mr X] started kicking the cell window and yelling out," swearing and using abusive and threatening language towards Police while in the holding cell. Custody Officer D said Mr X continued behaving this way until he left the holding cell.
20. The CCTV footage of Mr X in the holding cell shows he spent most of his time quietly lying or sitting on the bench. Twice he approached the door to the holding cell and appeared to be calling out for a few seconds, then returned to sit on the bench. The footage does not show Mr X kicking anything. Three minutes after Police placed Mr X into the holding cell, the second detainee joined him. The CCTV footage shows the two men sitting and talking in a relaxed manner.
21. At 10.47pm, Custody Officer D brought Mr X into the receiving area. He informed Mr X:  

*"I'm going to search you again, that's just part of the process. I understand you've been searched outside in the sally port by the arresting officer but you're in my custody, so therefore I'm going to search you again...."*
22. Custody Officer D said Mr X swore at him in response.
23. CCTV footage shows Mr X cooperated with Custody Officer D by remaining standing with his hands placed on the counter while the pat-down search took place. Mr X appeared to be joking and laughing with other custody officers. Custody Officers E and G were shaking their heads and smiling at each other, and laughed at something Mr X said, while Custody Officer D completed the search.

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<sup>5</sup> The ECM is an electronic Police system used to record details relating to a person in custody.

24. Custody Officer D sent Mr X through the metal detector, which is near the receiving counter. Mr X passed through too quickly, and was sent through a second time. Custody Officer D said Mr X tried to kick him as he came through the metal detector. Custody Officer E described this as *“a mixed-martial arts sort of kick”*.
25. CCTV footage shows that as Mr X came back through the metal detector, he twisted his body slightly, lifted his arms into a loose boxing stance, and raised his knee. He then lowered his leg and returned to a normal standing position with his arms by his sides. He did not kick out. Custody Officer D was standing at least a metre away, and Mr X could not have made contact with him. Neither Custody Officer D nor any of the other custody officers visibly reacted to Mr X’s kick. Custody Officer D said he warned Mr X about his behaviour.
26. As the receiving process continued, CCTV footage shows that Mr X remained talkative, and moved his arms a lot as he spoke. He took off one of his socks, and then put it back on, standing throughout, without staggering. The custody officers remained relaxed. At 10.50pm, Mr X used the back of his open hand to tap Custody Officer D lightly on the chest, with little or no force. Custody Officer D referred to this as a *“back-slap”*.
27. Custody Officer G said Mr X was *“mucking around, being a clown”* but was not a physical threat. Custody Officer E, on the other hand, described Mr X as verbally abusive and *“unpredictable”*. Custody Officer D said by this stage he considered Mr X’s behaviour to be assaultive:<sup>6</sup>

*“I warned him again, I said, ‘That’s assault’, so I thought, okay I’ll give you one more warning, ‘cos I gave him a warning when he tried to kick me on his way out [of the metal detector], and then I gave another warning when he back-slapped me.”*
28. Custody Officer G asked Mr X a series of questions to evaluate his health and wellbeing, and had Mr X sign the ‘Notice to Person in Custody’ and property forms. Mr X was evaluated as ‘not in need of specific care’.
29. Custody Officer G unlocked a standard two-person cell for Mr X. At 10.53pm, Custody Officers D and E escorted Mr X out of the receiving area.

### *Use of force*

30. While walking to the cell, Custody Officer D was about one metre ahead of Mr X, slightly to the left, and Custody Officer E was a similar distance behind Mr X, to his right. CCTV footage shows that both custody officers appeared relaxed in their stance. Mr X was not being restrained or guided by either custody officer.
31. CCTV footage shows Mr X was talking to the officers while they walked. Mr X remembered asking Custody Officer D if there was any dinner left. However, in his TOR, Custody Officer D

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<sup>6</sup> Police policy describes an ‘assaultive’ person as someone who displays intent to cause harm, through body language/physical action.

wrote “[Mr X] said ‘I’M GOING TO GET YOU M\*#THER F\*&(KERS WHEN I GET OUT OF HERE!!!”<sup>7</sup>

32. As Mr X walked past a cell, he banged on the window with his hand and shouted something at the occupants. Custody Officer D’s TOR states that Mr X“... got angry and punched a cell window and yelled ‘F\*&K THE POLICE!!!”
33. CCTV footage does not show Mr X’s hand clearly, at the point it impacts the cell window, but due to the way Mr X’s arm and wrist moves before and after impact with the window, it appears most likely that he has hit the cell with the palm of his hand, rather than his fist.
34. Custody Officer D was walking in front of Mr X, and could not have seen Mr X hit the window. Custody Officer D told the Authority:

*“...he started punching stuff and I thought this guy could blow up at any second so I could be next or [Custody Officer E]. So for my safety, [Custody Officer E]’s safety and also [Mr X]’s safety I decided to, to take control of the situation which is to restrain him....”*

35. Custody Officer D turned around to face Mr X and paused for a moment. Mr X continued walking, having not broken his relaxed walking pace when he hit out at the window. Custody Officer D’s face can be seen in the CCTV footage, and he did not say anything to Mr X or Custody Officer E:

*“I paused for a little while ‘cos well, you know, once someone’s in a punch – you know in that mood he could strike at any time so I didn’t jump in straight away once after he punched the window.”*

36. Custody Officer D then took hold of Mr X’s left arm, and Custody Officer E took hold of Mr X’s right arm. Custody Officer D pushed Mr X’s arm forward, propelling him towards the opposite wall of the corridor. Custody Officer E described this as an ‘arm bar takedown’.<sup>8</sup> CCTV footage shows Mr X being pushed hard into the window of the cell opposite, hitting it head-first with some force. He then slid down the wall to the ground, with the officers holding his arms all the way. Custody Officer D said:

*“...I just grabbed his hands, placed them against the wall, tried to place them against the wall, and from there once he hit the window he sort of went down onto the ground....”*

37. Custody Officer E told the Authority he heard Mr X hit his head, but his focus was on “just getting him down so he can’t injure himself or injure us.” Mr X was face down on the floor as Custody Officers D and E pulled his arms behind his back. Custody Officers D and E said Mr X was struggling and resisting efforts to restrain him after he was on the ground. From the CCTV footage, Mr X appears as limp, and there are no signs of Mr X resisting the custody officers.

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<sup>7</sup> Capital letters and symbols are reproduced here as they appear in the TOR.

<sup>8</sup> ‘Arm bars’ are approved manual restraint techniques which custody officers can use to control a person’s movements, or to gain control over a person who may try to escape.

### Placing Mr X in a monitored cell

38. Custody Officer H was monitoring the CCTV cameras in the custody unit. He said:

*“...I just saw [Mr X] punch a window or a cell and that’s when I saw [Custody Officer D] and [Custody Officer E] grab him and then they pinned him against an opposite side of the wall ... that’s when I got off the desk.”*

39. Custody Officer H unlocked cell S4, “which is the cell where we put the angry ones.” He left the custody desk to assist Custody Officers D and E, arriving along with Custody Officer G. When they arrived, Mr X was still lying face down on the ground with Custody Officers D and E bent over the upper half of his body.

40. Mr X was pulled up to a standing position by Custody Officers D, E and G. Custody Officer G stood back and observed, while Custody Officer D applied a wrist lock to Mr X’s left wrist, and Custody Officer E applied a wrist lock to Mr X’s right wrist, so Mr X was bent over. Custody Officer H kept a hand on Mr X’s head so he would not try to stand up straight. They walked Mr X to cell S4.

41. Cell S4, which is used for high-risk or non-compliant detainees, is a monitored cell with a CCTV camera, and without a bench, bedding, toilet or basin. Custody Officer E explained:

*“We took him down to [cell S4] with his head down low so he didn’t spit at us or anything because that’s – I noticed then there was blood.... We’ve put him in there and we’ve left him there for the time being...”*

42. CCTV footage shows that at 10.54pm, Mr X was dragged into cell S4 by his arms. He was placed on the floor on his side. The custody officers left. Mr X rolled onto his back and remained on the floor for a few seconds. He was bleeding from a cut above his right eye.

43. Custody Officer I came to the cell and observed Mr X for the first time, through the window. She assumed Mr X had been difficult, despite not having seen him earlier, because “nobody goes to that [S4] cell unless they are behaving that way. He earned his way there.” She also recalled Mr X “being carried by four officers to the cell, that’s how resistant he was, which goes a long way to show for his behaviour.” She was not aware Mr X was originally going to be put in a standard cell, or that Mr X had suffered a possible head injury as well as the cut near his eye.

44. Mr X got to his feet, unsteadily, and began moving around the cell. He appeared to be dazed, stumbling from one cell wall to another. Custody Officer I continued to observe Mr X, then wrote his name on the noticeboard on the cell door and left.

### Follow up actions

45. Custody Officer D told the Authority he and Custody Officer E spoke to Officer F about the cut above Mr X’s eye immediately after he was put in cell S4. Custody Officer D and Officer F both recall having a conversation about calling a doctor for Mr X shortly after the incident. However, Mr X’s risk evaluation of ‘not in need of specific care’ was not reassessed after his injury.
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46. CCTV footage shows Mr X continued to walk unsteadily around cell S4, staggering from one side to the other, sitting on the floor, getting up, and walking to the cell door to look out. He continued moving around in this manner for a few minutes. Mr X seemed to realise at this point he had suffered a cut to the head. He took off his shirt and held it to his head several times, as if applying pressure.
47. At 10.58pm, Custody Officers D, E, and F came back into the cell, wearing gloves. Custody Officers D and F were leaning over Mr X, talking to him, while he sat on the floor. Custody Officer D said *"We explained the situation to him in the cell of why we'd done what we'd done and if he wanted medical attention. We were just told to get fucked."* At 11pm the custody officers left the cell.
48. Mr X got up again and resumed walking around the cell. He appeared somewhat steadier on his feet but was visibly distressed. He shouted towards the cell door, and held his shirt back to his head, above his right eye.
49. Mr X was knocking on the cell window. Custody Officer G told the Authority *"... he wants attention but yeah, but everyone always does that in the cell."* At one point Mr X turned to the CCTV camera and indicated to the cut above his eye. He continued pacing, mainly in front of the cell window and door.
50. A note was added to the ECM for Mr X, under 'signs or indicators that care needs to be taken with this person' in his evaluation notes: *"Updated at 2310hrs, [Custody Officer D], [Mr X] was restrained near [cell A6] and was escorted to S4 due to threatening behaviour."* No mention was made of the cut to Mr X's face, or his possible head injury.
51. At 11.22pm, Officer F opened the door to cell S4 and stood just inside the doorway. Custody Officers D and E were behind him in the corridor. Officer F spoke with Mr X about his behaviour, and told him he needed to behave better if he wanted to be moved. Mr X showed Officer F the cut above his eye. Officer F spoke with Mr X about his behaviour again, and then motioned for Mr X to come out of the cell.
52. The officers escorted Mr X to another cell, which had a mattress Mr X could sleep on. Cell S6 has a CCTV camera in the corridor outside, showing any movements into and out of the cell, but no camera inside the cell. Officer F stood inside the doorway and continued speaking to Mr X, and Custody Officer D gave him an ice pack. At 11.26pm the officers closed the door to cell and left.

### *Medical examination*

53. Mr X saw a Police doctor at 2.22am. When interviewed by the Authority, none of the custody staff could recall who called the doctor, or what information they provided about Mr X's injuries. In later submissions, Officer F said that he called the doctor to see another detainee, and asked him to see Mr X while he was there. The ECM does not contain any record of the doctor being called for Mr X.
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54. Mr X told the doctor he had been “*pushed to the ground by the Police in the station*”. The doctor’s clinical assessment was that Mr X:
- appeared mildly intoxicated;
  - had swelling and a cut around his right eye; and
  - had no signs of concussion.
55. The doctor concluded that Mr X had received a blow to the right eyebrow. His report stated that no special care was required, but he told Mr X to visit his doctor and get an x-ray to determine whether he had a facial fracture.

### *Reporting on use of force*

56. After the incident, Officer F asked Custody Officer D to complete a Tactical Options Report (TOR) because he had used force against Mr X.<sup>9</sup> Custody Officer E told the Authority he helped Custody Officer D to complete the TOR, and the first version of this was completed by the end of their shift. The custody officers did not view the CCTV footage at the time.
57. In his TOR, Custody Officer D described the incident:

*“... [Mr X] punched the window. I immediately restrained him and placed him against the wall applying an arm bar technique with the assistance of [Custody Officer E]. The arm bar technique is one that we have been trained with, however he resisted and he was then placed on the floor to gain full control. He was then escorted to cell S4.”*

58. Custody Officer D went on:

*“... I used reasonable force to restrain [Mr X] by the left arm and escorted him to a detox cell because he was too aggressive and unpredictable to be placed in the main cellblock area with other detainees. I believe he was capable of carrying out his threat of physical violence on myself or another officer.”*

### *Mr X’s recollection of the incident*

59. Mr X does not remember hitting his head in the corridor, being restrained, or being put into cell S4. He said:

*“I was getting processed. They were taking me back to my cell. I asked the officer ‘any dinner?’ He told me ‘nah bro.’ ‘All right, sweet.’ That’s the last thing I remember.”*

60. The next thing Mr X remembered was being woken by three officers in his cell. He had a headache and a cut on his head:

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<sup>9</sup> A 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.



*"I woke up in the cell. Blood. I asked them, 'Bro why am I, why am I bleeding? Why am I, why [is] my face sore?' and they were like, 'Bro we had to use force on you,' I was like, 'Bro.' I couldn't really understand. Didn't, didn't know why they done that."*

61. Mr X also remembered being woken up a second time, again by three officers, and taken to see the doctor. He recalled the doctor telling him his cheek might be fractured, and saying *"as soon as you get out tomorrow, go straight to the doctors to get a facial scan."*
62. After being released from custody, Mr X went to the front counter of Counties Manukau Police Station and asked to see CCTV footage of what happened to him while he was in custody. He was told he could not, and that he would have to go to another part of the station and complete a complaint form. Mr X decided not to follow up with his complaint at this time.
63. Mr X said he did not get an x-ray as recommended by the doctor, because he did not have money to pay for a doctor's visit. He had headaches initially, and a black eye and a swollen face for a week or so.
64. On 1 May 2017, Mr X complained to the Authority. He wanted to know what happened, and why force was used against him.

#### **Police investigation**

65. After receiving notice of Mr X's complaint from the Authority, Police investigated the incident. Custody Officer D was placed on restricted duties and subsequently charged with injuring with reckless disregard for the safety of others under section 189(2) of the Crimes Act 1961.
  66. On 19 July 2018, Police withdrew the charge against Custody Officer D.
  67. Following the dismissal of the court proceedings, Police carried out an employment investigation into Custody Officer D's actions, and he was sanctioned.
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## THE AUTHORITY'S INVESTIGATION

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68. The Authority conducted an independent investigation, which included:
- interviewing Mr X;
  - interviewing Officer B (the arresting officer) and Officer F (the custody supervisor);
  - interviewing Custody Officers, D, E, G, H and I ;
  - speaking to Officer K, who trains custody officers in the use of force;
  - reviewing documentation provided by Police; and
  - viewing CCTV footage of Mr X's time in Police custody.
69. The Authority identified and considered the following issues:
- 1) Were Police justified in arresting and detaining Mr X?
  - 2) Were Police justified in searching Mr X twice?
  - 3) Did Police assess Mr X appropriately when he arrived at the DCU?
  - 4) Was the use of force against Mr X in the corridor justified and reasonable?
  - 5) Did Mr X receive the appropriate level of care from Police after he was injured?
  - 6) Did officers complete and review the Tactical Options Report correctly?

## THE AUTHORITY'S FINDINGS

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### Issue 1: Were Police justified in arresting and detaining Mr X?

70. Police can arrest a person without a warrant if the person is on bail, and there are "*reasonable grounds*" to believe that the person has contravened or failed to comply with any bail condition.<sup>10</sup>
71. On 28 April 2017, Mr X was subject to District Court bail. His bail conditions included a 7pm to 7am curfew at his home address, and he was not to consume alcohol.
72. Mr X approached his neighbour on the street at about 8.45pm, after his 7pm curfew. When Officer B arrived at Mr X's address, he saw Mr X outside holding an alcoholic drink, and Mr X told Police he had consumed about six cans of alcohol. Officer B decided there was sufficient evidence to arrest Mr X for breaching his bail conditions, and the Authority is satisfied that Officer B was justified in arresting Mr X.

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<sup>10</sup> Bail Act 2000, section 35(1).

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73. When Police arrest a person for breaching a bail condition, the person must be brought before the Court *“as soon as possible.”*<sup>11</sup> Mr X appeared in Manukau District Court, charged with breaching bail, on 29 April 2017, the morning after his arrest. The Authority is satisfied that Police were justified in detaining Mr X overnight.

## FINDINGS

Officer B was justified in arresting Mr X.

Police were also justified in detaining Mr X to appear in court.

### Issue 2: Were Police justified in searching Mr X twice?

74. Police can search a person who is, or who is about to be, taken into Police custody, *“before that person is locked up”*, under section 11(2) of the Search and Surveillance Act 2012 (a section 11 search).
75. After detainees have been locked up, a section 11 search can only be carried out if:<sup>12</sup>
- there was no section 11 search carried out before they were locked up;
  - they have come into close proximity with someone who is not in Police custody;
  - they have come into close proximity with someone who has not been searched; or
  - there are reasonable grounds to believe they are in possession of something that may be used to harm themselves or someone else.
76. Police policy instructs the arresting officer to conduct a section 11 search of the detainee at the station, preferably in the presence of the custody staff. Custody staff are required to verify that the arresting officer has carried out a section 11 search. The policy is clear that only one section 11 search is permitted unless one of the exceptions described in paragraph 75 applies.
77. CCTV footage shows Officer B, the arresting officer, searching Mr X in the sally port at the custody unit. The Authority is satisfied that this search was lawful and constituted a section 11 search.
78. Custody Officers D and E watched the search, and were therefore both able to verify that the search was carried out. Nevertheless, when Custody Officer D brought Mr X into the receiving area, he searched Mr X again.<sup>13</sup>
79. Custody Officer D and Officer F, the supervising sergeant, told the Authority it was normal practice to search prisoners in their custody a second time and they had legal justification to do so under section 11 of the Search and Surveillance Act. But in this case none of the legal

<sup>11</sup> Bail Act 2000, section 35(2).

<sup>12</sup> Search and Surveillance Act 2012, section 11(3).

<sup>13</sup> See paragraph 21.

exceptions permitting a second section 11 search applied. Although Mr X had been with another person in the holding cell, Custody Officer D knew that person had also been searched.<sup>14</sup> Custody Officer D had no reasonable grounds to suspect that Mr X had anything in his possession that could be used to harm himself or anyone else.

80. The Authority finds that the second search of Mr X by Custody Officer D in the receiving area was not justified, as Custody Officers D and E had witnessed Officer B's section 11 search, and the exceptions in section 11(3) of the Search and Surveillance Act did not apply.

## FINDINGS

The search of Mr X by Officer B was justified under section 11 of the Search and Surveillance Act 2012.

The second search of Mr X by Custody Officer D was unlawful.

### Issue 3: Did Police evaluate Mr X appropriately when he arrived at the DCU?

81. The Police's 'People in Police detention' policy requires custody staff to evaluate a detainee based on a series of questions about their health and wellbeing. The outcome of this evaluation determines how often a detainee must be checked (monitored) while in custody.
82. Custody Officer G asked Mr X a series of questions to evaluate his health and wellbeing, and as a result Mr X was assessed as being 'not in need of specific care'. This meant custody staff were required to check him at least once every two hours.
83. The Authority considers the initial assessment of Mr X as being 'not in need of specific care' when he was received into custody was appropriate.

## FINDING

Police evaluated Mr X appropriately when he was processed into custody.

### Issue 4: Was the use of force against Mr X in the corridor justified?

#### *Custody Officer D – initial use of force*

84. In his TOR, Custody Officer D claimed self-defence as his justification for using force against Mr X. Section 48 of the Crimes Act 1961 (the Crimes Act) provides that any person, including Police, may use reasonable force in defence of themselves or another.
85. In order to rely on a defence under section 48, a person's actions must be assessed on both a subjective and an objective basis. This assessment involves three questions:

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<sup>14</sup> See paragraph 17.

- 1) What were the circumstances as Custody Officer D believed them to be (a subjective test)?
- 2) Was Custody Officer D's use of force for the purpose of defending himself or another (a subjective test)?
- 3) If force was used for the purpose of defending himself, was the force used reasonable in the circumstances as Custody Officer D believed them to be (an objective test)?

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

86. Custody Officer D said Mr X had been aggressive and assaultive from the time he was brought into the custody unit. He described Mr X swearing at and threatening custody staff, and kicking the wall of the holding cell (see paragraph 19). He said Mr X had tried to kick him and back-slapped him (see paragraphs 24 and 26). Immediately before taking action, he heard Mr X strike a cell window with his hand (see paragraphs 32 to 34).
  87. Custody Officer D wrote in his TOR that *"Mr X said 'I'M GOING TO GET YOU M\*#THER F\*&(KERS WHEN I GET OUT OF HERE!!!!' and when he hit the cell window he shouted 'F\*&K THE POLICE!!!!'"* (see paragraphs 31 and 32).
  88. He also wrote *"I believe [Mr X] was capable of carrying out his threat of physical violence on myself or another officer."*
  89. Custody Officer D explained that after Mr X hit the cell window he thought he needed to restrain Mr X, and paused to wait for the right moment to do so because *"in that mood he could strike at any time"* (see paragraphs 34 and 35).
  90. The Authority does not accept Custody Officer D's explanation of the circumstances he believed he was facing at the time of the incident. CCTV footage shows the actions of Mr X and the custody officers, and contradicts the statements Custody Officer D made after the event. In particular:
    - Rather than swearing at and threatening custody staff and kicking the wall of the holding cell the whole time he was in the holding cell (see paragraph 19) as alleged by Custody Officer D, CCTV footage of Mr X in the holding cell shows he was quietly sitting and lying down for all but 42 seconds of a 20 minute period (see paragraph 20).
    - Rather than trying to kick him during the receiving process (see paragraph 24) as alleged by Custody Officer D, CCTV footage shows that Mr X raised his knee, but did not try to kick Custody Officer D (see paragraph 25).
    - The *"back-slap"* alleged by Custody Officer D was a light tap on the chest with little or no force behind it (see paragraph 26).
    - Police intended to put Mr X in a cell that can accommodate two detainees (see paragraph 29). Police policy requires that violent detainees be placed in a cell by themselves (see paragraph 150). If Mr X was assaultive (showing intent to cause harm)
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as Custody Officer D claimed, Police would not have considered placing him in a shared cell.

- Custody Officer D said that Mr X was assaultive and unpredictable during the receiving process. If this was genuinely Custody Officer D's perceived cumulative assessment, he would have recognised the need to restrain Mr X using an escort hold, so that custody officers could easily control his movements if needed (refer to paragraph 135).
- When escorting Mr X to a cell CCTV footage shows, prior to Mr X hitting the cell window, the custody officers were walking with Mr X in a relaxed manner. Mr X was not restrained or guided by either officer (see paragraph 30). Such force would need to be necessary and proportionate (see paragraph 136).
- Custody Officer D was walking in front of Mr X (see paragraph 30). Police policy requires staff escorting detainees to ensure the detainee walks in front of them (see paragraph 151). This allows staff to observe the detainee and manage their behaviour if needed. When Custody Officer D chose to walk in front of Mr X, he either did not consider Mr X assaultive, or was reckless as to the danger he posed. The Authority considers that, on balance, the former is more likely.

91. Considering these matters together, the Authority considers that Custody Officer D has exaggerated his description of Mr X's behaviour and the risk he posed to the custody officers and other detainees.

92. For this reason, the Authority does not accept Custody Officer D's explanation of the circumstances he was facing when he used force. Instead, the Authority considers that Custody Officer D has considered his use of force after the incident, and has overstated Mr X's behaviour and the risk he presented, to provide justification for his use of force.

*Did Custody Officer D use force to defend himself or another person?*

93. Custody Officer D said he used force against Mr X *"for my safety, [Custody Officer E]'s safety and also [Mr X]'s safety."* He said *"I decided to, to take control of the situation which is to restrain him"* (see paragraph 34). He said that Mr X *"was capable of carrying out his threat of physical violence on myself or another officer"* (see paragraph 58).

94. CCTV footage shows that Mr X continued to exhibit disorderly behaviour, but not assaultive or aggressive behaviour necessitating use of force by Custody Officer D in self-defence or in defence of another person.

95. When reviewing CCTV footage, the Authority noted the following:

- Mr X appears to hit the cell window with an open hand rather than a punch. Whatever the methodology, in context it is a reasonable inference that this was intended to get the attention of the occupants, rather than to cause damage or show physical strength as a threat to the other detainees.



- After Mr X hit the cell window, he kept walking and dropped his hands down to his sides. Nothing in Mr X's posture or pace changed to indicate he had become aggressive towards the custody officers.
- When Custody Officer D turned, looked at Mr X, and paused, Mr X appeared to remain relaxed. He did not move towards either custody officer, nor did he make any aggressive body movements, nor any attempt to escape. His demeanour was unchanged.

96. Custody Officer D's statement that he decided to "take control of the situation" seems to best reflect his intent in using force to restrain Mr X.

97. The Authority considers that Mr X did not present a threat to Custody Officer D or E, or any other person. Instead of using force to defend himself or another person, the Authority considers that Custody Officer D used force to gain control over Mr X.

*Was the force used reasonable in the circumstances as Custody Officer D believed them to be?*

98. Having found that Custody Officer D was not acting in self-defence, this question need not be addressed. However, even if the Authority had found that Custody Officer D was acting in self-defence, it would have concluded that the force used was not necessary or reasonable.

99. Custody Officer D had the opportunity to attempt to use less violent means to manage the situation in the corridor after Mr X hit the cell window with his hand. He did not attempt to use tactical communications to de-escalate the situation, nor did he attempt using a less forceful restraint or escort hold to move Mr X into the nearby open cell.

#### *Custody Officers D and E – restraining Mr X on the ground*

100. Custody Officer E assisted Custody Officer D in restraining Mr X when he was on the ground, after he had hit his head. Custody Officer E told the Authority he had heard Mr X hit his head, but was focussed on restraining him so did not think about the potential injury.

101. Instead, both custody officers insisted Mr X was continuing to resist their efforts to restrain him, refusing to give them his hands and swearing at the officers.

102. CCTV footage of the restraint shows that Mr X was lying face down on the floor, and was not struggling or moving his arms or legs in any deliberate manner. The Authority considers that Mr X was not resisting the custody officers, and there was no need to have two custody officers on top of him manipulating his arms into a restraint hold.

103. The Authority considers that this use of force was excessive.

#### **FINDINGS**

Custody Officer D's initial use of force was unlawful because it was used to control Mr X, and not in order to defend himself or another person.

Even if the Authority did accept that Custody Officer D was using force in self-defence, the force used was not necessary or reasonable.

The subsequent use of force by Custody Officers D and E when restraining Mr X on the ground was excessive.

## Issue 5: Did Mr X receive the appropriate level of care from Police after he was injured?

### *Should custody staff have reassessed Mr X after he was injured?*

104. The 'People in Police detention' policy requires custody staff to reassess a detainee's risk and monitoring level if there is a change in their circumstances. The policy gives examples of changes in circumstances that might trigger a reassessment of a person in custody, but does not set out an exhaustive list. The examples do not presently include when a detainee has sustained an injury, so custody staff may not be aware that reassessment should be considered in that circumstance, particularly after a head injury.
105. In this case, Mr X was not reassessed and his risk evaluation remained 'not in need of specific care'. The Authority considers that this may not be sufficient for a person who may have suffered a head injury. If a detainee suffers a possible head injury while in Police custody, the detainee's circumstances have changed and a reassessment is required.
106. Mr X should have been reassessed and placed on frequent or constant monitoring until he was seen by a doctor. At a minimum, notes about Mr X's injuries should have been made in the ECM so other custody staff could monitor Mr X accordingly.

### *Did Police provide Mr X with appropriate medical assistance?*

107. Police policy requires staff to call a health professional if *"...the detainee has been injured (especially where a potential head injury has occurred proximate to the detention)."*
108. Immediately after Mr X was injured, the custody officers failed to recognise the need for prompt medical attention. Officer F told the Authority:
- "I noted his injuries and I said 'we need to order, get a doctor in,' so I organised a doctor, not just for [Mr X] but for another detainee that's come in with some injuries as well..."*
109. Custody Officer D also told the Authority he offered Mr X the opportunity to see a doctor, and Mr X refused. However, a doctor should have been called immediately, regardless of whether Mr X wanted to see one or not, and this should have been recorded in the ECM.
110. Custody Officer D and Officer F both recalled having a conversation about calling a doctor for Mr X shortly after the incident. Neither could confirm when the doctor was called, who called the doctor, what information was given to the doctor about what had happened to Mr X, or



whether a follow-up call was made. Nor was this information recorded in the ECM, as it should have been.<sup>15</sup>

111. The doctor saw Mr X at 2.25am, about three and a half hours after he was injured. In his statement to Police, the doctor said he was called because Mr X had concerns about being manhandled by Police, and told him he had been pushed to the ground. The doctor concluded that Mr X had been hit on the head, but accepted Mr X's word he had not been knocked out.
112. Before he examined Mr X, the doctor was not shown CCTV footage of the incident in the corridor or of Mr X's behaviour in cell S4 afterwards. He was shown the footage when he made a statement to Police. The doctor told Police:

*"If I'd been privy to this information and certainly if I had seen the last bit of footage where he was so disoriented in [cell S4] I think it is likely I would have treated Mr [X] differently and probably recommended that he be taken to the hospital for concussion screening."*

113. The Authority is concerned at the length of time it took before Mr X received medical attention. When Mr X suffered a possible head injury, custody staff should have called a doctor as soon as possible and followed up within a reasonable period of time.

## FINDINGS

Custody staff should have re-evaluated Mr X after he was injured, and increased his monitoring frequency until he was seen by a doctor.

Custody staff should have ensured that notes about the injury were made in the ECM.

Custody staff should also have ensured the doctor saw Mr X as soon as possible after he received his potential head injury and that records were kept in the ECM about the doctor's attendance.

### Issue 6: Did officers complete the Tactical Options Report correctly?

114. The Police 'Use of force' policy requires officers to report uses of force, including 'empty hand' techniques where the person falls to the ground.<sup>16</sup> Every officer who uses reportable force must complete his or her own Tactical Options Report (TOR). An officer's immediate supervisor must review the TOR, and then forward it to an inspector for final review. When the supervisor wants changes made, they must insert a comment into the body of the TOR outlining the additional information needed or changes required, and then return it to the officer so they can make the changes.
115. Officer F asked Custody Officer D to complete a TOR in relation to the force used on Mr X. Custody Officers D and E told the Authority they completed the TOR together. Police policy

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<sup>15</sup> The 'People in Police detention' policy requires everything that happens in relation to a detainee to be recorded, which naturally includes details relating to medical treatment.

<sup>16</sup> 'Empty hand' refers to a weaponless use of force, such as grabbing hold of, pushing, or manually restraining an offender.

requires officers to complete their TOR to reflect their individual accountability for uses of force, and the TOR is on record as Custody Officer D's version of events.<sup>17</sup> The TOR should have reflected Custody Officer D's personal assessment of the risk and why he responded with the force used, without being influenced by Custody Officer E's views. It was therefore inappropriate for Custody Officer E to have assisted Custody Officer D.

116. In the TOR, Custody Officer D states he "... *immediately restrained [Mr X] and placed him against the wall...*" after Mr X hit the cell window. He also said Mr X continued to resist attempts to restrain him, causing Custody Officer D to move Mr X onto the floor.
117. However, CCTV footage shows Custody Officer D did not restrain Mr X "*immediately*", but waited before doing so. Similarly, Mr X was flung against the wall, rather than "*placed*" there. Custody Officer D's account does not explain Mr X's injuries, nor does the TOR accurately reflect Mr X's apparent lack of responsiveness once on the floor of the corridor.
118. On balance, the Authority considers that Custody Officer D misrepresented Mr X's behaviour, the use of force, and the subsequent restraint in the TOR, to put his use of the restraint in better light.
119. Officer F reviewed the TOR before the end of the shift. He sent it back to Custody Officer D for amendment a number of times, but did not outline the changes required or additional information he wanted Custody Officer D to include, as required by policy.<sup>18</sup>
120. Officer F noted he had not viewed CCTV footage of the incident, because he did not have access to view the footage. Officer F only submitted the TOR for approval three days after the incident, rather than before the end of the shift in which he received it. There is no evidence as to whether he had approval from his supervisor for the delay, as required by policy.<sup>19</sup>
121. Officer J, who completed the final review and signed off the TOR, did not view the CCTV footage either. He noted Custody Officer D's use of force was "*justified in the circumstances*".
122. The TOR online form includes instructions that, if the incident involved the use of a Taser, the Incident Reviewer must view the relevant TaserCam footage and firing log. However, the instructions do not refer to other kinds of relevant footage such as CCTV, motorway footage, or footage from the Police helicopter.<sup>20</sup>
123. Although not currently required by policy, the Authority considers it would have been good practice for Officers F and J to have viewed the CCTV footage available before approving Custody Officer D's TOR, particularly as it was clear Mr X was injured after he was received into custody.

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<sup>17</sup> See paragraph 135.

<sup>18</sup> See paragraph 139.

<sup>19</sup> See paragraph 138.

<sup>20</sup> See below for the Authority's recommendation.

## FINDINGS

The TOR is not an accurate reflection of Mr X's behaviour, the use of force, or the subsequent restraint.

Each time Officer F sent the TOR back to Custody Officer D, he should have outlined his reasons for doing so.

## SUBSEQUENT POLICE ACTION

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124. Police have acknowledged the doctor's comments that he would have assessed Mr X differently had he seen the relevant CCTV footage.

## CONCLUSIONS

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125. The Authority has found that Custody Officer D's initial use of force against Mr X was not lawful. Rather, it was not necessary, nor was it reasonable. The subsequent use of force by Custody Officers D and E in restraining Mr X while he lay on the floor was excessive.

126. Custody staff should have reassessed Mr X after he was injured and increased their monitoring of him until he was seen by a doctor. They should also have ensured that a doctor saw Mr X as soon as possible, and appropriately recorded details about the doctor's attendance in the ECM.

127. The Authority also found that:

- 1) Officer B was justified in arresting Mr X on 28 April 2017;
  - 2) Police were justified in detaining Mr X to appear in court;
  - 3) Officer B's search of Mr X was justified, but Police had no authority to search Mr X a second time at the ACU;
  - 4) Police evaluated Mr X appropriately when he was received into custody;
  - 5) Police should have made notes in the ECM about the possibility of Mr X having suffered a head injury;
  - 6) The TOR is not an accurate account of Mr X's behaviour, the use of force, or the subsequent restraint; and
  - 7) Each time Officer F sent the TOR back to Custody Officer D, he should have outlined his reasons for doing so.
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## RECOMMENDATIONS

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128. The Authority recommends that New Zealand Police:

- 1) Whenever practicable, provide all relevant information about a detainee, including any relevant CCTV footage available, to a health professional that is called to examine a detainee in Police custody to help them assess their patient.
- 2) Amend the TOR review policy so that supervisors are required to view all relevant and available visual recording (and not just TaserCam footage) in the course of a review.



**Judge Colin Doherty**

Chair  
Independent Police Conduct Authority

11 June 2019

**IPCA: 16-2191**

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## APPENDIX ONE – INDEX OF OFFICERS

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Frontline staff	Roles/Comment
Officer A	Arresting officer's partner. Present while Mr X was searched in the sally-port.
Officer B	Arresting officer. Rode to custody unit in back seat with Mr X and conducted sally-port search.
Officer C	Assisted with Mr X's arrest.
Custody Officer D	Present at sally-port search, searched Mr X inside the custody unit, restrained Mr X while escorting him to cell, and observed Mr X after injury.
Custody Officer E	Present at both searches of Mr X, witness to restraint of Mr X while escorting him to cell, observed Mr X after injury.
Officer F	Supervising Custody Sergeant. Observed Mr X after injury, approved Tactical Options Report.
Custody Officer G	Processed Mr X into the ECM, attended immediately following incident, observed Mr X after injury.
Custody Officer H	Monitored CCTV, attended Mr X immediately following incident, observed Mr X after injury.
Custody Officer I	Temporary Constable. Working night shift. Observed Mr X after injury.
Officer J	Approved the Tactical Options Report.
Officer K	Provides use of force training to Custody Officers.

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### Use of force

#### *Use of force for self-defence or defence of others*

129. Section 48 of the Crimes Act provides a defence against charges of use of force when using reasonable force to defend themselves or another person, in the circumstances as they believed them to be.
130. Under section 62 of the Crimes Act 1961, anyone who is authorised to use force by law is criminally responsible for any excessive use of force.

#### *Police policy on use of force*

131. The Police 'Use of Force' policy provides guidance to Police officers about the use of force. The policy sets out the options available to Police officers when responding to a situation. Police officers have a range of tactical options available to them to help de-escalate a situation, restrain a person, effect an arrest or otherwise carry out lawful duties. Custody staff have fewer tactical options than other officers (for example, they do not carry Tasers), but their tactical options include use of tactical communication, mechanical restraints; and empty hand techniques (such as physical restraint holds and arm strikes).

#### *Assessing the appropriateness of using force*

132. Police policy provides a framework for officers to assess, reassess, manage and respond to use of force situations, ensuring the response (use of force) is necessary and proportionate given the level of threat and risk to themselves and the public. Police refer to this as the TENR (Threat, Exposure, Necessity and Response) assessment.
133. An officer must also constantly assess an incident based on information they know about the situation and the behaviour of the people involved; and the potential for de-escalation or escalation. The officer must choose the most reasonable option (use of force), given all the circumstances known to them at the time. This may include information on:
- the incident type, location and time;
  - the officer and subject's abilities;
  - emotional state,
  - the influence of drugs and alcohol;
  - the presence or proximity of weapons;
  - similar previous experiences; and
  - environmental conditions.

Police refer to this assessment as an officer's Perceived Cumulative Assessment (PCA).

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134. The policy instructs Police staff to consider situational and personal factors that may affect safety when considering use of force, such as:

- *“use of tactical communication to safely de-escalate an incident;*
- *subject response to your communication;*
- *the number of subjects;*
- *your and the subject’s age, sex, size, and physical ability (including any parity or disparity between yourself and the subject);*
- *your training and skill level;*
- *your and/or the subject’s injury or exhaustion;*
- *the availability of Police back-up or specialist squads;*
- *subject intent;*
- *whether the subject:*
  - *has any relevant criminal history;*
  - *is under the influence of alcohol and/or other drugs/medication;*
  - *may have mental health issues;*
  - *has, or may have, a weapon(s) and/or is near a weapon(s) of opportunity; and*
  - *may be more vulnerable to any use of force;*
- *the situational environment, (matters such as whether staff are in a confined area, darkness, on an uneven surface, in a crowd, and other dangers not directly associated with the incident); and*
- *the seriousness of the offence.”*

135. A key part of an officer’s decision to decide when, how, and at what level to use force depends on the actions of, or potential actions of, the people involved, and depends on whether they are:

- cooperative;
  - passively resisting (refusing to cooperate verbally or with physical inactivity);
  - actively resisting (pulling, pushing or running away);
  - assaultive (showing an intent to cause harm, expressed verbally or through body language or physical action); or
  - presenting a threat of grievous bodily harm or death to any person.
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136. Police policy states that any force must be considered, timely, proportionate and appropriate given the circumstances known at the time. Victim, public and Police safety always take precedence, and every effort must be taken to minimise harm and maximise safety. Police are reminded that the authority to use force comes from the law, not policy.

#### *Reporting on certain uses of force*

137. When officers show, or use, certain types of force, the 'Use of force' policy requires them to complete a Tactical Options Report (TOR). The purposes of the TOR include:

- to provide individual accountability for the use of force, consistent with individual legal accountability; and
- to provide for supervisor and inspector review of the use and reporting of force.

138. Officers are required to submit Tactical Options Reports (TORs) to their supervisors before the end of the shift in which force was used, or with a supervisor's approval, within three days of this shift. The supervisor who reviews the TOR is the officer's immediate supervisor (sergeant or acting sergeant).

139. Supervisors are required to complete their review before the end of the shift in which they received a TOR, or with their supervisor's approval, within three days of this shift. If a supervisor wants an officer to make changes to their TOR, they are to make a comment outlining the additional information needed or changes to be made. If they disagree with the officer's view of what occurred, they should insert a comment noting their own view of what took place.

140. Inspectors are required to complete their reviews within seven days of receipt of TORs from supervisors.

#### **Searching detainees**

##### *Law*

141. The Search and Surveillance Act 2012 sets out the rights and obligations in relation to searching people in Police custody.

142. When a person is arrested or detained, sections 85 and 88 of the Search and Surveillance Act 2012 allow officers to carry out a "rub-down" search of the person, to ensure they are not carrying anything of evidential value or anything that they could use to harm themselves or another person.

143. When a person has been taken into custody, a full search of a person can be carried out under section 11 of the Search and Surveillance Act 2012. This allows officers to check the person more thoroughly before they are locked up. Once a search is carried out under section 11, subsection (3) only allows the person to be searched again if, since being searched:

- the person has been in close proximity to a person who is not in Police custody, or
-



- the person has been in close proximity to a person who has not been searched by officers, or
- there are reasonable grounds to believe that the person has anything that could be used to harm themselves or another person.

### Police policy

144. The 'People in Police detention' policy requires that officers who arrest or detain a person carry out a rub-down search of a person, as discussed in paragraph 142 above, before transporting him or her.
145. The policy expressly tells officers to leave a section 11 search until they reach the station. It clearly states that a section 11 search cannot be conducted again unless one of the circumstances in section 11(3) arises.
146. The policy also instructs custody staff to verify the arresting officer's search under section 11 of the Search and Surveillance Act 2012. They are referred to the instructions to arresting officers, but not expressly reminded that there can only be one section 11 search unless one of the circumstances in section 11(3) applies.

### Care of people in custody

147. The 'People in Police detention' policy provides that:

*"All Police employees are responsible for the care, safety and security of everyone detained including at scenes, during transport, within Police stations and cells at courts.*

*Police responsibility for care, safety and security starts from the moment a person is arrested or detained and does not end until they are released or transferred into the care of another agency, individual or family member.*

*Alongside the use of force, the detention of people is the strongest legislative power that can be executed by Police. To ensure every detainee is treated humanely we will:*

- *comply with all legislation related to detained people*
- *ensure all staff working in custody areas understand and apply the contents of this chapter*
- *ensure sufficient staff are allocated to work in custody areas."*

148. The policy contains procedures for receiving, assessing, monitoring and managing people in custody, and provides instructions for what to do when a person has consumed alcohol or drugs, is injured, has a known medical issue, or there is a risk of self-harm or suicide. It also sets out the responsibilities and duties of staff involved in custodial management to maximise health, safety and security.
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### Placing detainees into cells

149. The 'People in Police detention' policy tells custody staff to decide what cell a detainee should go into, considering whether they need to be segregated or are at risk from themselves or others. When considering whether detainees should share cells, the policy states that *"Placing more than one detainee in a cell (double bunking) is a viable option for detainee placement. Double bunking must only occur after a risk assessment has been completed (TENR) and the detainee's preference has been considered."*
150. The policy provides a list of detainees who must be segregated from other detainees in cells. This list states that violent detainees must be kept separate from other detainees.
151. Custody staff are instructed to always tell another officer when they enter or leave the cell block, and to request assistance if in any doubt. Staff are instructed that *"When escorting a detainee ensure they walk in front of you."* Staff are to make a TENR assessment, and if appropriate, use mechanical restraints.

### Medical issues

152. The policy tells custody staff to call a health professional if a detainee is injured, especially where there is a potential head injury *"proximate"* to the detention. The 'monitoring' section of the policy tells staff to reassess a detainee if there is a change in their circumstances.
  153. There is a section in the policy dealing with detainees affected by drugs, alcohol or medical complications. It provides a guide to assessing a person's responsiveness as 'alert', 'drowsy or confused' 'partially responsive' or 'unresponsive'. When a person is partially responsive or unresponsive, staff are to treat this as a medical emergency and hospitalisation is recommended.
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## ABOUT THE AUTHORITY

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### 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 Colin Doherty.

Being independent means that the Authority makes its own findings based on the facts and the law. It does not answer to the Police, the Government or anyone else over those findings. In this way, its independence is similar to that of a Court.

The Authority employs highly experienced staff who have worked in a range of law enforcement and related roles in New Zealand and overseas.

### What are the Authority's functions?

Under the Independent Police Conduct Authority Act 1988, the Authority:

- receives complaints alleging misconduct or neglect of duty by Police, or complaints about Police practices, policies and procedures affecting the complainant in a personal capacity;
- investigates, where there are reasonable grounds in the public interest, incidents in which Police actions have caused or appear to have caused death or serious bodily harm.

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

### This report

This report is the result of the work of a multi-disciplinary team of investigators, report writers and managers. At significant points in the investigation itself and in the preparation of the report, the Authority conducted audits of both process and content.

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Mana Whanonga Pirihimana Motuhake

PO Box 25221, Wellington 6146

Freephone 0800 503 728

[www.ipca.govt.nz](http://www.ipca.govt.nz)

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