

The Authority's Findings

Issue 1: Should Mr Z have been taken to the Auckland Custody Unit?

Officer A appropriately took Mr Z to the custody unit to be assessed by ambulance staff.

Issue 2: Was Mr Z's care at the custody unit adequate?

Overall, Police cared well for Mr Z in their custody. Police did not breach the 'People in Police Custody' policy or their overarching duty of care to Mr Z.

Analysis of the Issues

ISSUE 1: SHOULD MR Z HAVE BEEN TAKEN TO THE AUCKLAND CUSTODY UNIT?

In what condition was Mr Z when Police found him?

7. At about 5.45pm, Officers A and B were dispatched to the job. However, Officers G and H were nearby and decided to go to the incident to help. They arrived within about four minutes, before Officers A and B. Officer G found Mr Z in the driveway of a nearby property, and called to him several times, but Mr Z did not realise he was being called. He was picking leaves from a hedge. According to Officer G, when he eventually turned around, his eyes were *"very wide open,"* and he did not respond. Officer G suspected Mr Z was under the influence of drugs and kept calling to him until Mr Z started moving toward him. Officer G saw that he was unsteady on his feet and his hands were shaking.
8. Officer G directed Mr Z to sit on a nearby, low wall and spoke to him. Officer G says it was difficult to understand what Mr Z was saying because he was mumbling and speaking softly. He asked him if he had taken any drugs. Mr Z said no and claimed that he had three drinks. Officer G says: *"Throughout my entire interaction with him he was focused mostly on the leaves, both in his hands and on the footpath beside him."* Officer G suspected that Mr Z was on *"some sort of psychoactive drug."*
9. Officer G says Mr Z would:
 - erratically move his arms and legs;
 - randomly laugh aloud or smile, for no clear reason; and
 - become aggressive or defensive whenever asked about taking any drugs.
10. Officer G asked Mr Z where he was from, and he replied: *"from around the corner."* He later said that he was from Papakura. Officer G asked for his name, surname, and date of birth which he gave. He corrected Officer G when he misheard Mr Z's surname. Officer G checked Mr Z's information on the Police database and ascertained that he had 16 alerts for using or carrying firearms, four alerts for assaulting Police, two alerts for carrying knives, and several intelligence

notices. Officer H also observed the above, saying: *“His speech was hard to understand, he was mumbling and talking through his clenched teeth.”* He too believed Mr Z was under the influence of drugs.

11. Officers A and B arrived at about 6.00pm. Officer G told Officer A that Mr Z was acting erratically, and it looked like he was under the influence of drugs. He showed Officer A Mr Z’s alerts on the Police database.
12. Officer A says that he has arrested people under the influence of methamphetamine before and, from his experience, Mr Z’s behaviour looked similar. He observed that Mr Z was jittery and grinding his teeth. He says Mr Z spoke *“gibberish”* (that is incoherent) and he could not understand what he was saying. However, Officer A assessed that Mr Z understood when he was spoken to, because he complied with all Police requests, to sit, stand, and put his hands behind his back.
13. Officer B described Mr Z talking to himself and erratically moving his arms and legs. Officer B observed that: *“he continued to mumble but they weren’t real words. It was impossible to make sense of what he was saying.”*

Why did Police take Mr Z to the custody unit?

14. Because of Mr Z’s intoxication, Officer A believed he should be assessed by a medical professional. Officer A decided to arrest Mr Z for unlawfully interfering with a motor vehicle so that he could take him to the custody unit to be assessed by ambulance staff. Officer A says that Mr Z could not be left on the street in his condition, because he may have caused harm to himself by walking into traffic or caused problems for other people.
15. Mr Z had complied with all Police instructions, but Officer A concluded that, having regard to his alerts for violence and his level of intoxication, there was a risk that his behaviour could suddenly change, and he could become violent. This could create a risk of injury to himself, Police, medical staff, and possibly other people. According to Officer A, the custody unit was a safe environment where Mr Z could be assessed, away from other people, and where Police had resources and trained staff to deal with any aggression.
16. Officers G, H, and B confirmed that the reason for Mr Z’s arrest was so that a medical professional could assess him. Officer B emphasised that: *“The whole gist of that was to try to get him medical treatment.”* Officer A reassured Mr Z that they were going to take him to the custody unit to get help for him. He told Mr Z to stand up and put his hands behind his back, which he did. Mr Z was then handcuffed.
17. Officer A says Mr Z seemed disorientated, so he and Officer B guided him to the patrol car, holding an arm each. Officers A and B told us that Mr Z was able to walk unassisted to the patrol car, where he was given a pat-down search. Mr Z was standing with his back towards the open car door and sat down on the seat. However, he could not lift his feet into the car’s footwell, and Officer A helped him by lifting his feet. Officer B sat next to Mr Z in the back of the patrol car.

18. At 6.15pm, Officer A told NorthComms that he had taken Mr Z into custody and requested: *“If we could get an ambo to meet us at custody just to have a look at this guy real quick, cause he's tweaking out.”* Officer A told NorthComms that he was *“blue lighting”* (that is driving with the patrol car’s red-and-blue flashing lights on) to the custody unit and he expected to arrive within 5-10 minutes.
19. Officers A and B say Mr Z sat upright in the patrol car with his eyes *“squinty”* but open. Mr Z was calm but still grinding his teeth, had jittery movements, and was speaking incoherently. At 6.25pm, the patrol car arrived at the ACU.

Was it appropriate in the circumstances for Officer A to take Mr Z to the custody unit instead of hospital?

20. The policy ‘People in Police Custody’ outlines that intoxication can mask underlying medical conditions,² which can go undetected when Police staff assume that a person just needs to sober up. In this case, the Police staff members did not assume that Mr Z just needed to sober up. Officer A was concerned enough with Mr Z’s level of intoxication to ask for an ambulance to meet them at the custody unit.
21. Officer A acknowledged that he heard NorthComms’ communication about Mr Z having clutched his chest. In light of the post-mortem findings, specifically that Mr Z had an underlying heart condition, this is contextually relevant. However, Officer A says he believed Mr Z was intoxicated and not suffering from a medical event. According to Officer A, this belief was based on the fact that Mr Z did not clutch his chest when Police interacted with him, and nor did he show any signs of being in distress. For this reason, Officer A did not specifically ask Mr Z about him clutching his chest. He also says he thought Mr Z could not speak because of the level of his intoxication.
22. Officer A says that although he thought Mr Z needed to be medically assessed, he did not think his condition required urgent medical intervention. Officers B, G, and H judged Mr Z’s condition in the same way. Officer A explained that they took Mr Z to the custody unit with their patrol car’s red-and-blue flashing lights on, not because they considered his condition serious but because of the safety concerns they had about him (these concerns were based around Mr Z’s alerts for violence towards Police carrying firearms, the fact that Police found a firearm in the van, and because he had only been given a cursory pat-down search). Officer A asserted that if he thought Mr Z’s condition was serious, he would have taken him to the hospital directly. Auckland Hospital is about a two-minute drive away from the ACU. We accept that Officer A would have taken Mr Z to the hospital straight away, had he thought his condition was serious.
23. About 20 minutes of traffic camera footage shows Mr Z in the intersection, first exiting the van, going to a car parked behind him, and trying to open the car’s door, then exiting the intersection, the arrival of Police, and their interactions with him. As Mr Z exited the van and approached the car, his body was partly hidden by the van. This, it would seem, is where he clutched his chest because he cannot be seen doing this anywhere else in the footage. The act of Mr Z clutching

² See appendix, paragraph 74.

his chest therefore appears to have been a single, transitory event and not something the officers saw.

24. As Mr Z walked out of the intersection, his gait was uncoordinated, but not more so than a person who is moderately intoxicated by alcohol. When Officers G and H arrived and interacted with Mr Z, he talked to them, sat down, and stood up by himself. He walked to a hedge where he urinated and walked back to the officers, unaided. From looking at Mr Z's demeanour and actions when the officers interacted with him, Officer A's conclusion that he was just intoxicated is plausible.
25. Police records show that NorthComms communicated all relevant information about Mr Z to the ambulance service, including his having clutched his chest.
26. When Officers G and H first interacted with Mr Z, he was still capable of talking to them, but when Officers A and B arrived, he had become completely incoherent. The officers did not notice this deterioration in his condition. Even if they had, this development was insufficient to warrant Mr Z being taken to the hospital's emergency department, particularly in light of the officers' understanding that an ambulance would be at the custody unit soon, to assess him medically.
27. The policy on detainees "*affected by drugs, or alcohol, or medical complications*" requires staff to treat a situation in which a detainee has become partially responsive or unresponsive as a medical emergency.³ In such instances, staff are required to arrange for, or take a detained person to a hospital. Partially responsive, in the above context, refers to a person who has become unconscious but who still responds to pain (by applying pressure to the nail bed) and unresponsive refers to an unconscious person who does not respond to any stimuli. At this stage, Mr Z was conscious, and his condition did not meet the threshold for the situation to be treated as a medical emergency.
28. The officers assessed that Mr Z's condition rather reflected a state of him being "*drowsy or confused*" because he was still able to understand their instructions and just needed some assistance to walk. The policy indicates that a person in this state may be admitted into custody but requires that they should be closely monitored, because their level of consciousness may change over time because of intoxication or medical complications.
29. In hindsight, it is obvious that Mr Z should have been taken to a hospital rather than the custody unit. However, Officer A decided to take Mr Z to the custody unit based on what he observed, and the information available to him at the time. In our assessment, that decision was reasonable in the circumstances.

FINDING ON ISSUE 1

It was appropriate for Officer A to take Mr Z to the custody unit to be assessed by ambulance staff.

³ See appendix, paragraph 75.

ISSUE 2: WAS MR Z'S CARE AT THE CUSTODY UNIT ADEQUATE?

What happened with Mr Z in Police's custody?

30. Officer F, a custody officer who worked at the ACU's control desk,⁴ heard over the Police radio that Officer A was on his way to the ACU with a man and had asked for an ambulance to come to the custody unit. Officer F asked NorthComms over the radio why an ambulance was needed. The dispatcher told her: *"He might be on something but we're not really sure, and actually we were called because he was clutching his chest, he's not 1K [drunk] but he's possibly on something, we just want ambos to check him."*
31. At about 6.18pm, Officer A told NorthComms that he was on the way to the ACU. The dispatcher confirmed that the ambulance service was informed but that she was waiting for an estimated time of arrival (ETA) for the ambulance. Just before arriving at the ACU, Officer A asked NorthComms: *"Any ETA on ambos?"* to which the dispatcher responded: *"Negative."*
32. At 6.25pm, Officer A informed NorthComms that he had arrived at the ACU. Officer F now asked over the radio if there was an ETA yet, and the dispatcher informed her: *"Negative, I'm pushing for one, but I'm not getting anything."*
33. Officer D (a custody officer) met Officers A and B and Mr Z when they arrived at the custody unit's sallyport.⁵ She introduced herself to Mr Z, who was still seated in the patrol car. Officer D says she asked Mr Z if he was okay, and he responded, 'yes' by nodding his head up and down, and this was followed by him *"mumbling"*. Officer D says she asked him if he had consumed alcohol or drugs that evening, but his response was again *"mumbled."* Officer D explains: *"I felt like he was trying to communicate back to me, but just couldn't get his words out. I thought he couldn't talk to me because of the effect of the drugs, but he responded whenever I spoke to him or touched him, so I was happy that he understood what I was saying."*
34. Officer E, another custody officer, went to the sallyport and saw Mr Z seated in the patrol car. Officer E saw that Mr Z's eyes were open, he was sitting with his head tilted upwards, but his shoulders were shaking. Officer E says he did not think that Mr Z needed to go to a hospital urgently, but he thought that the custody sergeant (Officer C) should be aware. Officer E then went to Officer C and asked him to go out and assess for himself whether Mr Z needed to go to a hospital.
35. Mr Z could again not lift his feet out of the patrol car's footwell, and Officer A helped him. Officers A and B lifted Mr Z out of the patrol car. Officer D says she told Mr Z that she was going to cut his pants' cord, and he replied: *"Okay."* She then checked his pockets to make sure that he had no dangerous items in them.
36. Officer C went to the sallyport and arrived after Mr Z had been taken out of the patrol car. He saw that Mr Z was able to stand, but that he was shaking and seemed to be sweating. He heard staff

⁴ Custody officers (or 'Authorised officers') are non-sworn Police employees who have responsibility for managing the health, safety, and secure custody of detainees.

⁵ A sallyport is a secured, garage-type area, used for transferring detainees from a patrol car to a holding cell.

asking him questions, and that Mr Z “mumbled” incoherently in response. According to Officer C: *“From what I observed, he presented like someone who had taken some sort of drugs.”* Custody footage shows that Officer C observed Mr Z for about 37 seconds.

37. Officer D asked if she could move Mr Z into a nearby holding cell where his handcuffs could be removed, and where he could more comfortably wait for the ambulance. Officer C agreed to this but instructed that Mr Z had to be constantly monitored.⁶ Officer C says Mr Z was able to walk when he was escorted to a holding cell. Officers A and B each took an arm and guided Mr Z to the designated holding cell. Both officers agreed that Mr Z was able to walk by himself. Officer C assessed: *“I was happy with his coordination and mobility to accept him into custody and knowing that an ambulance was on the way.”*
38. From our perspective of the custody footage, it does not appear that Mr Z could walk by himself. However, Officers A, B, C, and D all told us he walked of his own accord, and we are prepared to accept their evidence on this point.
39. Custody footage shows that at 6.31pm Mr Z was placed in a holding cell and seated on a bench. Officers D and B removed the handcuffs, which took a couple of minutes. Officer A instructed Officer B to stay with Mr Z and monitor him constantly. From the custody footage, Mr Z appeared pale, and his body (specifically his legs and arms) was shaking. Mr Z was also salivating from his mouth. He tried to stand up and Officer D placed her hand on his shoulder and asked him to remain seated.
40. At 6.34pm, Officer F advised NorthComms over the radio: *“I know you're struggling for ambos but if one could get here relatively quickly it would be ideal. He's under the influence of drugs and he's quite hot and sweaty, he's struggling to control his body and he's very unsteady. He should probably be seen sooner rather than later.”* NorthComms responded: *“I totally agree, I'll try to get an ETA just stand by.”*
41. At 6.35pm, Officer D asked Officer E to bring two cups of water for Mr Z to drink. Officer B held one cup to Mr Z, but he did not take it. Officer D took the cup from him and brought it to Mr Z's mouth. According to Officer D: *“He grunted at me, so I thought he didn't want the water.”* She placed the cup next to him on the bench.
42. Officer D noticed that Mr Z kept leaning to the right and grabbed onto his sleeve, to stop him from falling over. Mr Z spoke again, saying: *“I'm okay.”* Officer D then let go of his sleeve yelling out into the custody unit if there was an update on the ambulance's ETA. She was told that there was no update yet.
43. At 6.37pm, Mr Z lay on his back on the bench. Officer D said he appeared uncomfortable, and she asked Officer B to help him sit up again. When Officer B touched Mr Z, he sat up without assistance. Mr Z tried to stand up from the bench a couple of times, but Officers B and D prevented this and asked him again to remain seated.

⁶ Where a detainee needs constant monitoring, he/she must be directly observed without interruption.

44. At his time, Officer A went to Officer C and briefed him on the arrest. According to Officer C, Officer A told him that Mr Z was acting strangely and mumbling his words, which is why he asked for an ambulance to come and assess him. Officer C says he was not told that Mr Z had earlier been reported to have clutched his chest. However, custody officers D and F, who mostly dealt with Mr Z were aware of this.
45. Officer F told us that because of Mr Z's level of intoxication, she was concerned that he was at risk of "excited delirium".⁷ At 6.39pm, she went to the holding cell and took Mr Z's body temperature with a contactless thermometer.⁸ The thermometer gave a result of 36.4 degrees, which she understood to be within the normal range. Officer F then went to check Mr Z's earlier custody records to see if he had a history of diabetes or any other medical conditions but found none. Officer D also checked the Police database to see what medicines Mr Z had earlier been admitted into custody with and saw that he only had Paracetamol before.
46. At 6.42pm, Mr Z stood up from the bench and stepped towards the cell's wall opposite him, with his hands stretched out in front of him. The footage shows that his motor function and balance were severely uncoordinated, and he was salivating. Officers A and B, who were standing at the cell door, quickly moved to Mr Z to help in stabilising him and guiding him back down onto the bench. Officer A can be seen rubbing Mr Z's shoulder, trying to reassure him.
47. Officer F says she had a "gut feeling" that something was not quite right about Mr Z's condition, but she does not know why she thought this. She decided to take Mr Z's heart rate. At 6.44pm, Officer F entered the holding cell and asked Mr Z if she could check his pulse. Officer F says Mr Z's eyes were closed, and he did not respond to her request. She told him that she was going to take his hand to do so. However, when she touched his wrist, Mr Z pulled his arm away and tried to push her hand away with his other hand. Officer F says: "This eased my anxiety slightly in that it was clear from his actions that he was conscious enough to understand what was going on, even though he didn't appear to be able to communicate verbally."
48. Officer F saw that Mr Z was sweating. She was concerned that he was overheating and asked Officers A, B, and D to take his jumper off to help him cool down. When they removed Mr Z's jumper, Officer B noticed that he had wounds on his stomach. The officers present saw what looked like stab wounds on his stomach and perforation wounds with bruising on his neck and chest. The injuries did not look recent and showed signs of healing.
49. At 6.45pm, Officer F left the cell and informed Officer C of the injuries they found. In the holding cell, Officers A, B, and D moved Mr Z into the corner where he could sit, supported by the cell walls. Mr Z was, to our observation, partially sitting up but slumped into the corner, his eyes were closed, and his body shaking. Officer E brought a blanket and a defibrillator into the cell, as a precautionary measure.⁹
50. At 6.46pm, Officer C entered the holding cell and assessed Mr Z's injuries, saying: "Once we saw the stab wounds, that's when the risk for us increased significantly." Officer C explained that he

⁷ A condition affecting a person's consciousness and thinking that may result in violent behaviour.

⁸ This is a thermometer that is held a short distance in front of a person's forehead to get a reading.

⁹ An apparatus used to control heart fibrillation by application of an electric current to the chest wall or heart.

was now worried about the possibility of internal bleeding or complications stemming from infection. However, he did not instruct staff to take Mr Z to the hospital immediately because he still thought the ambulance might be near, and it would be better if medical staff could attend to him sooner, as opposed to missing Mr Z because custody staff were transporting him to hospital. At 6.47pm, Officer C left the holding cell.

51. At about 6.48pm, Officer F radioed NorthComms and asked: *“Can we get P1 ambo?¹⁰ We've just whipped off his jumper cause he's overheating, and he appears to have multiple stab wounds.”* NorthComms acknowledged the information and records show that ambulance services were duly informed.
52. At about 6.49pm, Officer F noticed that Mr Z's eyes were closed, and she decided to check his pupils. She opened each eye and noticed that both Mr Z's pupils were dilated and did not change in response to the light. Officer F explained that she did not know what this meant medically; she thought that this was because Mr Z was under the influence of drugs. Officer F does not remember if she told anyone what she had seen.
53. NorthComms telephoned the ACU and informed Officer C that the next available ambulance could come to the custody unit at about 7.00pm after they changed shifts. Officer C says he felt that they could not delay getting Mr Z to a hospital. So, at about 6.51pm, he instructed Officers A and B to take Mr Z to the hospital as a matter of urgency. Officer D subsequently informed NorthComms that Officers A and B would take Mr Z to Auckland Hospital. She requested that NorthComms inform hospital staff of Mr Z's condition and prepare for his arrival. NorthComms did this and confirmed over the radio that hospital staff were waiting for Mr Z at the emergency bay.
54. Officers B and E lifted Mr Z from the bench in his cell and moved him to the door. By this point, Mr Z could not stand and went down on his knees. Officers A and B dragged Mr Z to the patrol car. The officers struggled to lift Mr Z into the back of the patrol car but managed after a few minutes. Once he was inside the patrol car, Officer D noticed that Mr Z's eyes opened, and he stopped *“mumbling.”* She thought that he had become unresponsive. Officer D called everyone to stop what they were doing, and she considered whether they should start CPR.¹¹ However, Mr Z again started to move, the shaking returned, and she noticed that he was still breathing.
55. At 6.56pm Officers A and B left the custody unit with Mr Z, with their patrol car's red-and-blue flashing lights activated. Officer A was the driver, and Officer B sat in the back with Mr Z. Officer B says that 30 seconds to a minute into the drive, Mr Z went silent and stopped moving. He called out to him and pushed him to try and get a response. Officer B noticed that Mr Z had stopped breathing and informed Officer A.
56. At 6.57pm, Officer A told NorthComms: *“We're blue lighting that male to the hospital right now, he's not responsive anymore if we could just get everyone ready at the ambo bay!”* Officer B

¹⁰ P1 refers to a 'Priority 1' event. This categorises a situation as urgent and emergency services should prioritise attendance.

¹¹ Cardiopulmonary resuscitation (CPR) is a lifesaving technique that consists of chest compressions, combined with artificial ventilation, to manually preserve intact brain function until spontaneous blood circulation and breathing can be restored.

described hitting Mr Z in the chest several times to get a reaction and wrapping his arms around him to perform chest compressions. Officer B continued with administering chest compressions until they arrived at the hospital. CCTV footage shows that Officers A and B arrived with Mr Z at the Auckland Hospital at 6.57pm, where medical staff took over. The post-mortem report records resuscitation injuries.

Did Police staff care adequately for Mr Z while he was in their custody?

57. The 'People in Police Custody' policy states that:

- *Where a Police employee has care or charge of a person in detention (or who believes they are unable to leave), the Police employee is under a legal duty of care to provide that person with necessities and to take reasonable steps to protect that person from injury (including self-harm or harm from others).*
- *This duty starts from the moment of arrest and continues until the care of the person is transferred to someone else or the person is released.*
 - a) In this case, the test for assessing if the Police staff discharged their duty of care towards Mr Z, is to ask: Did Police staff, who had custody of Mr Z, take reasonable steps to protect him from harm?

What steps were taken to protect Mr Z from harm?

58. Mr Z was in Police custody from the time of his arrest, until his care was transferred to medical staff at the hospital. Officers A and B (who arrested him) took the following steps:

- Mr Z was taken from the street to the custody unit, so he could be medically assessed, in a safe and secure environment.
- Officer A requested that an ambulance meet them at the custody unit.
- At the custody unit, Officer B constantly monitored Mr Z.
- When Mr Z stood up and was at risk of falling, Officers A and B intervened to stabilise him and sat him back down onto the bench.
- Officer A urgently drove to the hospital, to get Mr Z there quickly.
- When Mr Z became unresponsive, Officer A advised NorthComms to let the medical staff at the hospital know of his condition.
- Officer B performed CPR on Mr Z in the back of the patrol car.

59. When Officer C accepted Mr Z into ACU, he and the other custody staff assumed joint responsibility (with Officers A and B) for Mr Z's care. Custody staff took the following steps:

- Throughout the event, staff requested updates from NorthComms for the ambulance's ETA, and later tried to expedite the ambulance's response:
 - At 6.17pm, NorthComms informed Officer A she was waiting for an ETA;
 - At 6.23pm, Officer A asked NorthComms if she had an ETA yet;
 - At 6.25pm, Officer F asked NorthComms for an ETA;
 - At 6.34pm, Officer F tried to expedite the ambulance response, saying Mr Z should be seen *"sooner rather than later"*. NorthComms tried to get an ETA again;
 - At 6.46pm, Officer F asked for a priority response after discovering Mr Z's injuries.
- Officer D removed Mr Z's handcuffs and placed him in a holding cell where he could comfortably wait for the ambulance, rather than sitting in the rear of a patrol car, with his hands handcuffed behind his back.
- Officer D tried to get Mr Z to drink water.
- Officer F took Mr Z's body temperature.
- Officers F and D checked the Police database to see if Mr Z had known medical conditions or medication that he was taking.
- Officer F tried to take Mr Z's pulse to check his heart rate.
- Officer F noticed Mr Z was sweating and asked staff to remove his jumper to help cool him down.
- Officer F at once informed Officer C and NorthComms of Mr Z's injuries.
- Officer E brought a blanket and defibrillator into the holding cell.
- Officer F checked Mr Z's pupils to see if he was still conscious.
- Officer C instructed Officers A and B to take Mr Z to the hospital when it became known that the ambulance was not yet on the way to the custody unit.
- Custody staff requested that NorthComms inform the hospital of Mr Z's condition and to prepare to receive him at the ambulance bay.

60. Mr Z was not placed in a cell and left unattended. Staff were constantly with him. All their actions were directed towards his care.

Should Mr Z have been taken to a hospital earlier?

61. Mr Z was at the ACU for about 30 minutes, during which time, staff expected an ambulance to arrive and attend to him. The Police and custody officers' assessments were based on their

observations of his behaviour and their experiences in dealing with people under the influence of drugs.

62. We are aware that Police and custody officers are not medically trained, and the subtleties in the deterioration of a person's condition might not be explicit, as was the case with Mr Z. When Police found him on the street, Mr Z could speak, sit, stand up, and walk of his own accord. When Officers A and B arrived, he had already lost the ability to speak coherently. At the custody unit, his condition gradually became worse to the extent that, when he was taken to the hospital, he could not walk and had seemingly become partially or unresponsive (as explained below).
63. However, as outlined, the policy requires staff to take a detainee to a hospital in a police car where such a detainee has become unresponsive, there is a delay in the ambulance's arrival, or the person's condition calls for immediate action. The evidence show Mr Z was distinctly responsive at least up until the point where his jumper was removed, and he was placed in the cell's corner. Within approximately 5 minutes he was taken to the hospital.
64. Officers A and B told us that they thought Mr Z was still responsive because they could see him breathing and his body moving. Arguably, Mr Z became unresponsive after he was placed in the corner of the cell, particularly in light of Officer F's observations about his pupils not reacting to light stimuli. (Officer F checked Mr Z's pupils within three minutes of him being placed into the cell's corner.) However, at the same time that Officer F checked Mr Z's pupils, Officer C became aware that an ambulance was not yet on the way, leading to his decision that Mr Z be taken immediately to a hospital. Mr Z was taken out of the cell within two minutes of that decision.
65. In our assessment, the staff members concerned did not breach Police policy in taking Mr Z to the hospital when they did. However, as we explain below there were certainly missed opportunities for Mr Z to have been taken to a hospital earlier.

FINDING ON ISSUE 2

Overall, Police cared well for Mr Z in their custody. Police did not breach the 'People in Police Custody' policy or their overarching duty of care to Mr Z.

Recommendations

66. Common signs and symptoms associated with methamphetamine overdosing,¹² may include:
 - *Signs of a heart attack, such as chest pain, pressure, or squeezing sensations...*¹³
67. In interviewing the Police and custody officers who dealt with Mr Z, all of the staff told us that they were unaware of the common signs and symptoms of a person overdosing on methamphetamine. Police and custody officers frequently deal with people who are under the influence of drugs such as methamphetamine. Whilst we recognise that Police and custody

¹² Overdosing refers to adverse effects caused by drug intoxication, which may lead to death.

¹³ See: <https://drugabuse.com/drugs/methamphetamine/overdose/>

officers are not medically trained, we consider that they would benefit from an increased awareness of when a person may be suffering the effects of an overdose and the associated risks. This would better enable officers to care for intoxicated people and to protect them from potential safety risks.

68. We recommend that Police:

- Provide training/or guidance to create staff awareness around the risks, signs, and symptoms of methamphetamine and other drug overdosing.

69. We do not think the current policy threshold for taking a drug-intoxicated person to a hospital is satisfactory (that is, waiting for them to become partially responsive or unresponsive). Mr Z's case illustrates that the deterioration of a drug-intoxicated person's condition can be rapid and go unnoticed. Staff acted within minutes of him becoming partially responsive, which was already too late.

70. We recommend Police consider adding the following to the 'People in Police Custody' policy:

- If an ambulance is not available within a reasonable time, consideration should be given to taking a detainee directly to a hospital.
- Where a detainee has lost their ability to communicate or answer questions, this should be treated as a medical emergency, and the detainee should be taken directly to a hospital.

Subsequent Police Action

71. Police separately investigated Mr Z's death as a critical incident and also found that their staff did not breach Police policy and acted in accordance with their duty of care towards him.

72. Police have accepted the Authority's recommendations and are in the process of implementing them.



Judge Kenneth Johnston KC
Chair
Independent Police Conduct Authority
4 April 2024
IPCA: 23-18635

Appendix – Laws and Policies

INSERT ANY RELEVANT POLICY

S.226 (2) of the Crimes Act 1961 - Conversion of vehicle or other conveyance

73. Everyone is liable to imprisonment for a term not exceeding 2 years, who dishonestly and without claim of right, interferes with, or gets into or upon, any vehicle, ship, or aircraft.

'People in Police Custody' policy

74. Intoxication can mask underlying medical conditions which can go undetected when custody personnel assume the person just needs to 'sober up'. Note: Loud snoring is a sign the person is deeply unconscious.

75. Detainees affected by drugs/alcohol or medical complications:

If the person is ...

- Alert - able to engage in a coherent conversation ... THEN - follow the procedures for custody area staff.
- Voice / Drowsy or confused - responds to voice and able to reply. May need some assistance to walk ... THEN - follow the procedures for custody area staff. Be aware that the level of consciousness may change over time due to intoxication or medical complications.
- Pain / Partially responsive - responds to pain only (e.g. nail-bed pressure) ... THEN - treat this as a medical emergency and arrange for the person to be taken to hospital.
- Unresponsive - does not respond to any stimuli ... THEN - this is a medical emergency and immediate hospitalisation is required. If you expect a delay in the ambulance's arrival or the person's condition calls for immediate action, use a Police vehicle.

About the Authority

WHO IS THE INDEPENDENT POLICE CONDUCT AUTHORITY?

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

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

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

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

WHAT ARE THE AUTHORITY'S FUNCTIONS?

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

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

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

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

THIS REPORT

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