

Summary Report

Allegation of excessive force following arrest in Tauranga

INTRODUCTION

1. On 2 October 2013 a male (Mr X) made a complaint to Taupo Police that he was assaulted by an officer in the back of a Police car following his arrest in Tauranga on 26 September 2013.
2. The complaint was notified to the Authority who conducted an independent investigation into the incident. This report sets out the results of that investigation and the Authority's findings.

BACKGROUND

21 and 22 September 2013

3. On 21 September 2013, Mr X was found in his cell with a t-shirt tied around his neck while in Police custody in Tauranga. He was taken to Tauranga hospital and discharged the next day with a prescription for medication to help with his acute drug withdrawal symptoms.

26 September 2013

4. At about 5pm on 26 September 2013 Mr X began drinking heavily on his own at home. He later went to a pub in Tauranga where he got into a fight with other patrons. During the fight Mr X was hit on the head and was bleeding from his injuries.
5. Mr X started walking from the pub to Tauranga hospital. He had blood visible on his face, was naked from the waist up, and began banging on car windows to try and attract attention and get some help. Several members of the public saw Mr X's behaviour and injuries and called the Police. A short time later, at about 10.40pm, Police located Mr X on Waihi Road.
6. Mr X said that when he saw the Police cars coming towards him, he jumped into the bushes to hide as he "*does not trust the Police*". Mr X did not come out of the bushes until Police found him and a dog handler (Officer A) told him to come out.

7. Mr X and Police have different versions of what happened next.

Mr X's version of events

8. Mr X said that he walked out of the bushes without a struggle, with his hands in the air, and heard the officers say "*it's [X]*".
9. When interviewed by the Authority, Mr X accepted that due to his drug and alcohol intoxication and previous head injury he did not have a clear recollection of events but said that he was "*compliant*" during his arrest and that the officers told him that he was being arrested for disorderly behaviour and for a mental health assessment, then handcuffed him and put him in the Police car.
10. Mr X said that after he got into the Police car he asked if he could go to hospital. He said that the officers refused this request. Mr X said that he "*probably mouthed off*" at the officers and started getting agitated.
11. Mr X said that he may have bitten the officer who was seated next to him in the backseat of the Police car on his forearm. Mr X said that in response the officer leaned across him and punched him in his face with his fist using all his force, about three or four times over about a ten second period. Mr X said that he received a cut lip and a mark on his eyebrow from the officer's gold ring.
12. Mr X told the Authority that he can remember the constable's gold ring "*pounding his face*" and the female officer in the front telling the officer to stop. He said that the officer who hit him was sitting beside him and was "*big and white, about 50 years old with no hair. He had a gold wedding ring on his left hand*".
13. Mr X told the Authority that he was "all over the show at this stage, calm one minute then flipping out the next".

Officers' version of events

14. Officer B said that while he was on patrol on Waihi Road, he was approached by a member of the public about Mr X's behaviour. Officer B then drove to the bush area around the Takitimu junction of Waihi Road and located Mr X in the bushes. He described Mr X as "*not in his right mind*". He said that Mr X was using abusive and threatening language and saying that no one should come after him in the bush.
15. Officer A, a dog handler who had been dispatched to the scene earlier due to the calls from members of the public, told Mr X to get out of the bushes. In response, Mr X walked out with his hands in the air. Officer A said that when he saw Mr X come out of the bush, he recognised him from prior incidents. Officer A reported that, on all occasions that he had dealt with Mr X in the past, Mr X had been "*abusive, obstructive and in some cases assaultive*".
16. Officer A said that as Mr X was being led from the bush he began "*violently thrashing around and screaming obscenities*". He described Mr X as "*extremely intoxicated, drugged or both*".

17. Officer C, who had also been dispatched to the scene, said that he approached Mr X and told him that he was being arrested for disorderly behaviour and for the purpose of a mental health assessment. He said that Mr X appeared intoxicated and was aggressive when spoken to. He was handcuffed and put in the back seat of the patrol car behind the driver.
18. Officer D drove the patrol car and Officer C sat with Mr X in the back. The two officers agree that once in the back of the car, Mr X asked to be taken to hospital.
19. Officer D said that when Mr X realised that he was going to the Police station rather than the hospital, "*he became angry and verbally abusive*". Officer D said Mr X "*continued to shout very loudly and was abusive to all and sundry and was physically uncooperative*", moving around in the car and raising his legs up behind Officer D's seat.
20. Officer C said that as they were driving Mr X to the Police station Mr X became more aggressive and was "*screaming and ranting*". He says that Mr X threatened to kick him and "*fully raised his legs up and began thrashing about*", threatening Officer D.
21. Officer C said that Mr X was spitting at him and trying to bite his forearm. He feared that Mr X was going to try and kick him or Officer D, so he pinned Mr X in the seat with his arm across his jaw line and lower chin.
22. However, Mr X had managed to slide down in the seat and had lifted both legs up and started kicking the roof and trying to get at Officer D. Officer C said that he knew that if Mr X managed to kick Officer D they could crash. He said that "*the only option open to me was to punch [Mr X] in the face. I had to do this to retain control of the situation and to protect myself and my colleague. I wanted [Mr X] to 'snap' out of this episode, and regain control of him. I punched [Mr X] twice in the face*".
23. Officer D confirmed Officer C's account, saying that when Mr X began thrashing around in his seat, Officer C initially told him repeatedly to "*just calm down*". However, Mr X did not. Officer D said that due to Mr X's behaviour he started urgent duty driving (driving at speed with his flashing red and blue lights and siren activated) while Officer C tried to contain Mr X. He said that he heard Officer C tell Mr X two or three times to stop spitting and he saw, by glancing in the rear view mirror, Officer C with his forearm across Mr X's jawline pushing Mr X's face away as he was spitting.
24. Officer D told the Authority that he was pleased Officer C was controlling Mr X as he did not want to get spat on and was worried Mr X would kick his seat and cause an accident.
25. Officer D said that Officer C later told him that he had punched Mr X. Officer D said he did not see these punches.

Events post arrest

26. The officers and Mr X arrived at the Tauranga Police station at about 11pm. Officer C told the Authority that they had to call for several officers to try and help control Mr X as he continued to lash out inside the car.

27. Officer E, the custody senior sergeant, went and met the patrol car in the station sally-port. Officer E said that he saw Officer C "*struggling violently*" with Mr X in the back of the patrol car. He said that he knew Mr X from past dealings with him and that he was "*screaming and thrashing about wildly*". Officer E noted that Mr X had blood on his face around his right eyebrow, his nose and his mouth.
28. Officer D said that as a result of his aggressive behaviour, Mr X had to be "continually restrained and manhandled through the custody process where he was dragged into a holding cell".
29. Throughout the night Officer A went through the Watchhouse on numerous occasions and observed Mr X "*being loud and erratic to being calm and reasonably easy to talk to*". At one stage he was grabbing and pulling at his own genitals and had defecated in the cell. Officer A said that, when he asked why he was doing this, Mr X said that he was "*suffering from an alcohol and drug psychosis*".
30. Officer E told the Authority that they put Mr X in holding cell 3 at around 11.07pm and left him in handcuffs due to his non-cooperation and to "*keep an eye on him*". Officer E said that Mr X "*was almost incoherent he was that agitated*".
31. Mr X was released at 4.36am the next morning with a written warning for disorderly behaviour. Officer E told the Authority that when he was being released Mr X told him that he had been unnecessarily beaten by Police.
32. On 2 October 2013, Mr X made a statement to Taupo Police complaining about the use of force, but also that he was denied access to medical attention, the mental health crisis team and a lawyer. He also said that he had no water, no mattress and no blanket and that he had to drink from the toilet bowl.

Access to Medical Attention

33. In relation to Mr X's complaint that he was denied medical attention for his facial injuries, Officer D said that he remembered Mr X had a facial injury when he got in the car but Mr X would not say how he got it, and, in Officer D's view, Mr X "*definitely did not require urgent medical attention*".
34. Officer E, the custody senior sergeant, told the Authority investigator that Mr X did not ask him for medical attention and that his injuries "*looked pretty minor*". Officer E told the Authority that had the injuries looked bad he would have called for the doctor before Mr X was released. Officer E said that Mr X did not ask to see a doctor once he had calmed down.
35. Officer E said he could not risk putting a doctor in the cell with Mr X in the state that he was in as it would be a safety issue. He said that his practice is, "*that while a prisoner is outwardly aggressive, so long as they are not self harming, I simply leave them in whatever cell they are in until such time as the individual calms down. This is in the interest of both the prisoner and staff safety*".

36. Officer E told the Authority that in hindsight it would have been appropriate for Mr X to have seen a doctor, once he had calmed down, given that he had been struck in the head by an officer.

Access to a Mental Health Assessment

37. Mr X complained that despite being arrested for a mental health assessment, he was not given one.
38. Mr X was arrested for disorderly behaviour and detained for a mental health assessment.
39. After conducting a risk assessment, due to his previous threats to commit suicide and psychiatric history, Officer F assessed Mr X as requiring 'Frequent Monitoring' and needing a Duly Authorised Officer (DAO) assessment prior to his release.
40. Under Police policy, frequent monitoring requires Police to, "*observe at least five times an hour at irregular intervals*" with each inspection being recorded, as is required by Police policy. The prisoner records show that the required checks of Mr X were completed in accordance with policy. However, he was not assessed by a DAO as recommended.
41. Officer E told the Authority that he has known Mr X since he was about 14 or 15 years old and his behaviour is similar each time he is brought to the Police station. Officer E said that he did not consider that Mr X was displaying any signs of mental illness but that he was angry that he had been punched.
42. In addition, Officer E told the Authority that holding cell 3, where Mr X was put, is opposite the Watchhouse Keeper's reception desk, and to the left of the Shift Commander's office. He said that it is as close as the two observation cells and serves the same purpose in terms of being able to monitor the prisoner. Officer E said that Mr X was in constant view of the Watchhouse Keeper or himself in terms of being monitored.
43. The Authority established, during its investigation, that Mr X had previously attempted to commit suicide, whilst in Police custody, on 21 September 2013, just five days earlier. On that occasion, a DAO was called to examine Mr X and Mr X was released from Police custody to the Tauranga hospital mental health unit.
44. Despite this suicide attempt, Mr X was not flagged as a suicide risk on the Police computer system (NIA - National Intelligence Agency) as required by policy.
45. The failure to flag Mr X would normally mean that the officers caring for Mr X on 26 September would not be aware of the earlier attempt. However, by coincidence Officer F, the custody officer who monitored and released Mr X to the Tauranga hospital mental health unit on 21 September, was the same officer who carried out his risk assessment and frequent monitoring checks on this occasion, 26 September.

Access to a Lawyer

46. Regarding Mr X's complaint that his request to speak to a lawyer was not met, Officer E said that "*[he doesn't] know whether he made the request or not*". He said, "*at no time did I hear him ask to speak with a lawyer*".
47. He said that even if Mr X had asked to see a lawyer, he would not have got a lawyer for him until he calmed down. Officer E told the Authority investigator that he knows Mr X from previous dealings with him and knows how to deal with him. He said "*when he calms down you can actually deal with him and be reasonable with him*".
48. Officer E reported that when Mr X eventually calmed down he did not ask to see a lawyer, otherwise he would have called one for him.

Access to water and bedding

49. In his complaint Mr X said that he had no water, no mattress and no blanket and that he had to drink from the toilet bowl, as the tap was broken.
50. Officer E told the Authority investigator that Mr X did not receive water, a mattress and a blanket as he was violent, defecated on the floor and threw faeces under the door of the cells in the direction of Police staff. Officer E told the Authority that they "*can't deal with him while he's in this frame of mind*" and that he chose to keep him in the holding cell under frequent monitoring during his time in custody (see paragraph 99).

Police investigation

51. Police conducted a criminal investigation into Mr X's complaint that he was assaulted in the back of the Police car. They found that the actions of Officer C, in punching Mr X in the face twice, were justified in the circumstances.

THE AUTHORITY'S INVESTIGATION

52. The Authority has considered six issues:
 - 52.1 Were Police justified in arresting Mr X for behaving in a disorderly manner and detaining him for a mental health assessment?
 - 52.2 Was Officer C's use of force reasonable in the circumstances?
 - 52.3 Was the assessment of Mr X's risk adequate?
 - 52.4 Was Mr X given appropriate access to medical and mental health professionals?
 - 52.5 Did Police fail to deal with Mr X according to law and policy by not giving him access to a lawyer?
 - 52.6 Did Police fail to give Mr X water, a mattress and a blanket?

THE AUTHORITY'S FINDINGS

ISSUE 1: Were Police justified in arresting Mr X for behaving in a disorderly manner and detaining him for a mental health assessment?

53. Police were called to Waihi Road because of multiple reports of a shirtless man, with blood on his face, banging on car windows.
54. When the Police arrived they found Mr X, who matched this description, and who hid in the bushes when Police approached.
55. Police had reasonable cause to suspect Mr X had committed the offence of behaving in a disorderly manner under section (4)(1)(a) of the Summary Offences Act 1981: "*In or within view of any public place, behaves in an offensive or disorderly manner*". Police were empowered to arrest him for that offence under section 39 of that Act.
56. Police also relied on section 109(1) of the Mental Health (Compulsory Assessment and Treatment) Act 1992 which empowers officers to detain any person they reasonably believe to be mentally disordered, and who has been found in a public place, in order for a medical practitioner (Authority emphasis) to examine the person at a Police station or hospital. Section 109(6) provides that detention under this section cannot last longer than six hours.

FINDING

Police were justified in arresting Mr X for behaving in a disorderly manner and in detaining him for the purpose of a mental health assessment.

ISSUE 2: Was Officer C's use of force reasonable in the circumstances?

Laws on the Use of Force

57. Section 39 of the Crimes Act 1961 provides Police can use reasonable force in the execution of their duties such as arrests. Specifically it provides that officers may use "*such force as may be necessary*" to overcome any force used in resisting the law enforcement process unless the process "*can be carried out by reasonable means in a less violent manner*".
58. Section 48 of the Crimes Act 1961 provides that everyone is justified in using, in the defence of himself or another, such force as, in the circumstances as he believes them to be, it is reasonable to use.
59. Section 62 of the Crimes Act 1961 renders officers criminally responsible for any excessive use of force.

Was the force used by Officer C reasonable and justified in the circumstances?

60. Mr X complained that he was punched three or four times in the head with a closed fist in the back of the patrol car which caused his left eye to split.

61. As stated in paragraph 12, Mr X said that the officer who hit him with his left hand was "*big and white, about 50 years old with no hair. He had a gold wedding ring on his left hand*". Mr X also said that the "*lady in the front was white too*".
62. Mr X says that he remembers the constable's gold ring "*pounding his face*" and the woman officer in the front of the car telling him to stop.
63. The Authority's investigation has shown that Mr X's recollection of the officers in the Police car is incorrect. Officer C, the Police officer who sat in the back seat with Mr X, is not bald and does not wear a wedding ring. In addition, there was no female officer who either attended Mr X's arrest or travelled in the Police car.
64. Whilst Mr X failed to correctly describe the officer who punched him, and other details connected with the use of force, Officer C has always accepted that he punched Mr X twice in the face. He says that he did this to regain control after Mr X began thrashing around in the car, was spitting and tried to bite him.
65. Officer C told the Authority investigator that he believed that he was required to use force to protect himself and Officer D from Mr X's spitting and kicking. Officer C said that he initially tried to restrain Mr X by placing a forearm across his chest and bearing his weight down on him. However, this tactic was not effective and Mr X continued to kick and act out so Officer C punched him twice. The officer said that the first punch was a "*glancing blow across the right cheek area of [Mr X], as I pushed back off him with my forearm. This had little or no effect and a second punch was a direct punch to [Mr X's] face*" which again had little effect.
66. Officer C said that he believed his actions were "reasonable, necessary and proportionate under the circumstances".
67. Officer C told the Authority that, despite being punched twice, Mr X continued to lash out, so Officer C had to lie on top of Mr X, to restrain him, until they could get help from other officers at the station, which was only a short distance away.
68. In considering the reasonableness of Officer C's actions, the Authority has looked at the other tactical options available to Officer C. These options included O/C spray, baton or Taser.
69. Officer C said "I could not deploy my Taser in the confined space, and I knew that both [Officer D] and I would suffer if I sprayed him with O/C spray while in the car".
70. The Authority is satisfied that using a baton, O/C spray or Taser was not appropriate given the confined space of the car. The only option available was empty hand tactics. The Authority has concluded that Officer C needed to try to get the situation under control quickly in case Mr X kicked the driver.
71. After considering all of the available evidence, the Authority prefers the version of events given by Officers C and D and has concluded on the balance of probabilities that Officer C punched Mr X twice to protect himself and Officer D from Mr X's aggressive behaviour and biting.

72. Due to the evidence from other motorists and officers that Mr X had blood on his face before his arrest, and the fact that Mr X told Police and the Authority that he had earlier been in a fight, the Authority is unable to determine, on the available evidence, whether Mr X's split lip and cut to his eyebrow were caused by Officer C or in the earlier altercation at the bar.
73. Officer C correctly submitted a Tactical Options Report as required by Police policy.

FINDING

The force used by Officer C was reasonable and justified in the circumstances.

ISSUE 3: Was the assessment of Mr X's risk adequate?

Assessment of Mr X

Police policy on assessing prisoners

74. The Police Managing Prisoners policy requires that detained persons are formally assessed on their receipt at Police stations. Custody officers use the Electronic Custody Module (ECM) to process prisoners and manage their care and safety. This formal assessment process is in addition to the arresting or detaining officers' own risk assessment, which is taken into account by the processing officer. Custody officers also use the ECM computer programme to record a prisoner's arrival and movements in custody at the Police Watchhouse, as well as the checks on prisoners performed by custody staff.
75. The formal assessment determines:
- the prisoner's physical or mental health (including risks arising from alcohol or drug consumption or physical or mental disability);
 - whether they have any medical condition requiring medication or monitoring in custody;
 - warning signs indicating suicidal tendencies or risk of self-harm;
 - the level of threat that the person may pose to Police employees or other people in custody; and
 - any risk posed to them by other people in custody.
76. Police policy requires officers to create NIA alerts for prisoners following certain incidents. The Managing Prisoners policy states:
- "Information about suicidal tendencies must be entered and stored in NIA with the safety alert 'Self-Harm / Suicidal Tendency' whenever Police become aware (through any reliable means) that a person:
- is reasonably likely to attempt suicide, or

- has a known history of suicide attempt anywhere, whether in Police custody or not.

The employee learning of suicidal tendencies must promptly (always before finishing duty on the shift they became aware) enter information about suicidal tendencies by submitting a 'Suicidal Tendencies Notification' form.

77. This then creates an alert for officers if that person comes into Police custody again.
78. Once at the Tauranga Police station, Mr X was assessed by Police as a suicide risk, having made "*previous attempts or threats to commit suicide*" as recorded in the ECM. He was also recorded as being under the care of a mental health unit and had that he had been detained for the purpose of a mental health assessment.
79. Mr X was frequently monitored and physically checked at regular intervals, as required by the Police Custodial Suicide Management policy.
80. Officer E told the Authority that the mental health crisis team had been called for Mr X on a previous occasion, when he had also defecated in the cell, and the team had concluded that it was "*drug and alcohol induced type psychosis type stuff*".
81. The Authority established that Mr X had attempted to commit suicide whilst in Police custody on 21 September 2013, just five days prior. Despite this, Mr X was not flagged as a suicide risk on the Police computer system, as is required by policy (see paragraph 76).
82. Officer E said that had Mr X been flagged as a suicide risk it may well have made a difference to his decision making on the night of 26 September.
83. The Authority has concluded that Mr X's risk assessment was inadequate as a vital piece of information was missing from the NIA system – that he had tried to commit suicide five days earlier.

FINDING

Mr X's risk assessment was incomplete as Police should have flagged Mr X as a suicide risk in their computer system after his previous suicide attempt, five days earlier.

Issue 4: Was Mr X given appropriate access to medical and mental health professionals?

84. Mr X said that he was denied access to medical attention and to the mental health crisis team. The Authority has looked at these two issues and also whether or not Police complied with applicable law, Police policy and best practice.

Access to Medical attention

85. In accordance with policy, Police are not required to take an arrested person to hospital, at their request, unless the injuries are such that this would be a necessity, in which case an ambulance should be called.

86. Officers C and D accept that Mr X asked to go to hospital when he was being transported back to the Police station. However, they considered that Mr X's injuries were superficial and did not require hospital treatment. They knew that an assessment would be made by the custody senior sergeant, once they arrived at the Police station, as to whether a doctor was required.
87. Officer C told the Authority investigator that Mr X's injuries did not "*raise any concern whatsoever about it being a medical emergency*" and he was in no condition to be taken to hospital, as he could have "*gone off*" in the emergency room. Officer C said that when Mr X asked to be taken to hospital there was "*just a little bit of blood on [Mr X's] face*".
88. Officer E, the custody senior sergeant, told the Authority that, if Mr X's injuries had caused him concern, he would have arranged for the doctor to attend to him before he was released.
89. The Authority accepts that Mr X's injuries appeared to be minor and that he did not ask to see a doctor once he had calmed down.
90. As mentioned in paragraph 40, Officer E told the Authority that in hindsight it would have been appropriate for a doctor to have been called to examine Mr X given that Officer C had told him that he had punched Mr X twice in the head.

Access to Mental Health Crisis team

91. The officers dealing with Mr X in the Watchhouse decided that there was no need to call a DAO, given that most of the officers on duty knew Mr X, and believed from previous similar incidents that his intoxication and anger were causing his unusual behaviour, rather than a mental health condition.
92. However, the combination of the factors listed below leads the Authority to conclude that a medical practitioner should have been called to assess Mr X's mental health (see paragraph 56).
93. The officers in the Watchhouse knew the following things about Mr X:
 - he was under the influence of alcohol and drugs;
 - he was in a state of undress;
 - he was bleeding from the mouth, nose and eye areas;
 - he had been involved in a recent bar fight;
 - he was punched in the head by Officer A;
 - he was angry, violent, irrational and had defecated in the cell;
 - he had made previous suicide attempts (one five days previously);
 - he had been detained for a mental health assessment;

- there was a recommendation in the ECM that he see a DAO; and
 - he was kept in a holding cell for 5 ½ hours without access to water and bedding.
94. In addition, Mr X was in Police custody for 5 ½ hours. The Authority finds that this length of detention is not justified if it was based solely on Mr X's arrest for disorderly behaviour. However, in this case Mr X was also detained for a mental health assessment under section 109 of the Mental Health (Compulsory Assessment and Treatment) Act 1992. However, the assessment never took place.

FINDINGS

It was reasonable for Police to take Mr X to the Police station rather than hospital after his arrest.

Once at the Tauranga Police station, given the multiple risk factors, and the reason for and length of his detention, Police should have called a medical practitioner to examine Mr X and assess his mental health.

ISSUE 5: Did Police fail to deal with Mr X according to law and policy by not giving him access to a lawyer?

95. In interview, Mr X told Police that when he got back to the Tauranga Police station he told the officers that he needed to see a lawyer.
96. The officers dealing with Mr X do not recall him asking to speak to a lawyer at any stage. They said that if Mr X had requested a lawyer, they would have called him one once he had calmed down and was no longer a safety risk.

FINDING

The Authority has been unable to determine if Mr X asked to speak to a lawyer when he was in custody.

ISSUE 6: Did Police fail to give Mr X water, a mattress and a blanket?

97. Mr X complained that he was put in a cell with “no water, no mattress, no blanket and no rights”.
98. Police policy states that prisoners may be placed in a holding room or cell when awaiting a risk assessment, but should not be left unobserved where practicable. The policy states that when a prisoner is left alone in a holding room before assessment, officers should consider handcuffing the prisoner to prevent self-harm and observe them at least five times per hour.

99. Police report that Mr X was not moved from Holding Cell 3 during his time in Police custody. Officer E said that when Mr X was in custody he was "*ranting and raving, pacing around his cell and kicking the walls and doors*" and that due to his erratic behaviour, Mr X's handcuffs were removed so that he could break his fall if he fell.
100. Officer E told the Authority investigator that Mr X did not receive a mattress and a blanket as he was violent, defecated on the floor and threw his faeces under the door of the cells in the direction of Police staff but that Holding Cell 3 did have a working tap.
101. The Authority acknowledges that Mr X was kept in a holding cell for 5 ½ hours without access to bedding but is satisfied that this was due to his behaviour and that he was checked on five times per hour, in accordance with policy.

FINDING

Due to his violent, erratic and unsanitary behaviour, Police were justified in not providing Mr X with a mattress and a blanket.

CONCLUSIONS

102. The Authority has formed the following opinions:
 - 102.1 Police were justified in arresting Mr X for behaving in a disorderly manner and in detaining him for the purpose of a mental health assessment;
 - 102.2 the force used by Officer C was reasonable and justified in the circumstances;
 - 102.3 Mr X's risk assessment was incomplete as Police should have flagged Mr X as a suicide risk in their computer system after his previous suicide attempt, five days earlier;
 - 102.4 it was reasonable for Police to take Mr X to the Police station rather than hospital after his arrest;
 - 102.5 once at the Tauranga Police station, given the multiple risk factors, and the reason for and length of his detention, Police should have called a medical practitioner to examine Mr X and assess his mental health;
 - 102.6 the Authority has been unable to determine if Mr X asked to speak to a lawyer when he was in custody; and
 - 102.7 due to his violent, erratic and unsanitary behaviour, Police were justified in not providing Mr X with a mattress and a blanket.

SUBSEQUENT POLICE ACTION

103. Police have advised that a suicide alert has been placed against Mr X's name on the Police National Intelligence Agency (NIA). The Authority therefore makes no recommendations.

ONGOING DISCUSSIONS WITH POLICE

104. The Authority is currently finalising a generic report which discusses issues raised in this and other cases relating to the custodial management of people arrested and detained by Police.

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

Judge Sir David Carruthers

Chair
Independent Police Conduct Authority

22 January 2015

ABOUT THE AUTHORITY

Who is the Independent Police Conduct Authority?

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

It is not part of the Police – the law requires it to be fully independent. The Authority is overseen by a Board, which is chaired by Judge Sir David J. Carruthers.

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

The Authority 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 on whether any Police conduct, policy, practice or procedure (which was the subject of the complaint) was contrary to law, unreasonable, unjustified, unfair, or undesirable. The Authority may make recommendations to the Commissioner.



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