



Use of Police dog in Tauranga justified

In Tauranga on 18 April 2023, a man stole his ex-partner's car and abducted their 8-month-old child, in breach of a Protection Order. The man fled from Police when they attempted to stop him.

On 19 April, the man arranged to meet his ex-partner in a rural area to return the child to her. After the return of the child, members of the Armed Offenders Squad (AOS) found the man hiding in the bush nearby. A Police dog handler set his dog onto the man while taking him into custody. As a result of the dog bite, the man suffered injuries to his face and required surgery on his ear.

In accordance with section 13 of the Independent Police Conduct Authority Act 1988, Police notified us of the incident as it involved serious bodily harm.

We initially oversaw the Police investigation. However, we were not satisfied that enough evidence had been obtained to substantiate their finding that the use of force was justified. Subsequently, we conducted our own independent investigation. We reviewed Eagle helicopter communications and footage, analysed all relevant documents, visited the scene to determine the environment in which the officers were operating, interviewed members of the AOS, and spoke with the man's ex-partner. The man who was bitten chose not to provide us with his account.

We concluded the dog handler's use of the dog was justified under section 48 of the Crimes Act 1961, as he acted to defend himself and other officers while carrying out the arrest.

- The man was behind a bush, in an advantageous position on a hill above the officers. The dog handler had good cause to suspect he may have a knife and believed he saw something in the man's hand.
- We are satisfied that there were no less-forceful options available. The difficult terrain limited the officers' ability to cordon and contain the area while appealing to the man to come out of the bush. The position of the man, and thick foliage between him and the officers, prevented pepper-spray or a Taser from being used effectively.

During our investigation, the man's ex-partner alleged she was unlawfully detained at the Tauranga Police Station after retrieving her daughter, while a warrant was obtained for Oranga Tamariki to uplift her child that evening. She also alleged Police took her two phones and looked through them without her permission. We subsequently broadened our investigation to look into these allegations, speaking with Police staff who dealt with the woman at the station, to establish exactly what had occurred.

The woman returned to the Police station after retrieving her daughter, as she had been requested to do so. She was then required to assist in the criminal investigation matters relating to the abduction of her daughter. While she was at the station, the warrant was obtained by Oranga Tamariki and the woman learned social workers were coming to uplift her daughter.

Our investigation found no conclusive evidence that the woman was detained unlawfully, or that Police unlawfully searched her phones.

A handwritten signature in blue ink, appearing to read "Johnston".

Judge Kenneth Johnston KC

Chair
Independent Police Conduct Authority

28 May 2024

IPCA: 23-17908



IPCA

Independent Police
Conduct Authority

Mana Whanonga Pirihimana Motuhake

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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