

Summary of Findings

Complaints from Parliament Protest 2022

1. On 20 April 2023 we published 'The Review: Policing of the Protest and Occupation at Parliament 2022' (our general report). In that report we outlined that we received 1,905 complaints relating to the protest. Of those, we determined that 19 complaints required either a specific investigation or further enquiries to determine what further action should be taken. These complaints were about specific incidents, where the issues raised were unlikely to be sufficiently addressed during our broader investigation and/or the actions of Police staff appeared to be excessive in the circumstances and warranted further examination by the Authority.
2. We confirmed we would report the outcome to each complainant at the conclusion of each of the investigations and would provide a summary of our findings on these matters on our website in due course. We have now completed all these investigations and can provide a summary of our findings.
3. We received two further complaints following the publication of our general report, both concerning an officer's use of force on a person's head during arrest. We had already been investigating the actions of this officer as part of a complaint from another man arrested in a similar manner.
4. This means we have carried out 17 investigations into 21 matters (with two of the investigations each covering three similar incidents).

The Authority's Findings

COMPLAINTS ABOUT EVENTS ON 10 FEBRUARY 2022

5. There were six matters we considered about events on 10 February, which was the day Police first tried to clear Parliament grounds. All of these were about Police use of force on protesters. In three of the six matters we found the Police use of force was justified, in two investigations that the use of force was excessive (one investigation concerned findings on separate uses of

force on three individuals), and in one case we were unable to reach a conclusion on the available evidence.

6. The Crimes Act 1961 provides legal justification for using force in certain circumstances. The provisions cited most often as potentially relevant to Police action on 10 February are:
 - Section 39 – Police may use “*such force as may be necessary*” to overcome any force used in resisting an arrest.
 - Section 40 – Police may use “*such force as may be necessary*” to prevent the escape of someone who takes to flight to avoid arrest.
 - Section 48 – Any person is justified in using “*reasonable*” force in defence of themselves or another.
7. We examined many hours of video footage as part of our review of Police actions during the Parliament protest and occupation. It is clear from our video review that the protest on 10 February 2022 was a dynamic and ever-changing environment. While there were periods of relative calm during the day, there were also times of increased aggravation and conflict between Police and the protest crowd. There was ongoing physical engagement between Police officers and protesters on Parliament lawn lasting a considerable period of time that day. Officers were confronted with a line of protesters with linked arms who were actively resisting attempts to remove particular individuals from that line. Officers were occasionally required to defend themselves or their colleagues.

Investigation One – 22-11777

8. A man complained that Police officers used excessive force by:
 - repeatedly kicking and kneeling him in the back, and then grabbing him and forcefully shoving him across a footpath;
 - then grabbing him by his head and pulling him backwards; and
 - then twisting his hand and an officer pushing his thumb into a nerve spot causing him significant pain.
9. We found footage of the incident resulting in the man’s arrest. The footage confirmed the complainant’s account that he passively resisted Police staff and that they pulled him from a line of protesters. While the footage also showed an officer holding the complainant’s head, it appeared that the officer was actually supporting his head and neck while other officers attempted to pull the complainant up off the ground. The footage did not support the complainant’s allegations that he was kicked or kneed in the back.

FINDING ON INVESTIGATION ONE

Police did not use excessive force.

Investigation Two – 22-12262

10. A man complained that a Police officer kicked him in the groin while he was linked arm and arm with other protesters, and the officer then put his hands around the man's neck in an attempt to choke him.
11. The officer gave us a detailed account. He told us that he did not recall using his knee but did repeatedly lift his boot sideways in an attempt to get the complainant up. He denied intentionally kneeling or kicking the complainant.
12. The officer also denied deliberately putting his hand around the complainant's throat. He told us that in order to maintain the line, Police officers were operating with only one free hand, using the other to protect themselves and push protesters back. He said that, given their respective heights, he lifted his arm to push the complainant away but inadvertently placed his hand under the complainant's chin.
13. We did not find footage of this specific incident. While we had no reason to disbelieve the complainant's account of the incident, the officer's explanation was also plausible. Therefore, without further independent evidence, we were unable to reconcile the conflict about whether the officer's actions were reasonable in the circumstances, and could not take matters further.

FINDING ON INVESTIGATION TWO

Given the conflicting accounts and lack of independent evidence, we could not make a finding on the reasonableness of the officer's actions.

Investigation Three – 22-12369

14. A woman complained that a female Police officer put her elbow on the complainant's windpipe and then her sternum, and applied pressure, breaking her sternum. She was then pulled from the crowd and behind the Police line, in a manner that was not considerate of her injury. She also complained about the way Police spoke to her and that she was not provided with appropriate medical care.
15. Footage reviewed showed the woman was at the front line of the protest crowd and, prior to her injury, had linked arms with people on either side. When the crowd became agitated, the woman was being pushed by people behind and around her towards the line of Police.
16. The female officer directly in front of the woman was also being pushed from behind by other officers trying to hold the Police line in place.
17. We accepted the officer's explanation that she was unable to move her body and her left arm was pinned in place because of the pressure coming from the crowd and the Police line. The officer's left arm was pushed against the woman's chest because of the surging and combined pressure from the officers behind and the crowd in front. In effect, the woman and female officer were both sandwiched in place due to the exertions of the Police officers and the crowd.

18. The woman's sternum was fractured as a result of the pressure to her chest area, but there is no evidence that the female officer intentionally applied this pressure. She was not intending to apply any force to the woman.
19. We found that any disparaging comments made towards the woman were unnecessary and unprofessional. We were not able to identify which officer made the comments alleged. We determined the woman was offered appropriate medical assistance. Additionally, we identified that there was a communication breakdown between officers involved in the process of extracting the woman from the crowd, and another officer who escorted her to the custody area. The female officer asked for assistance in extracting the woman out of the crowd purely because of her apparent injury. She advised the two male escorting officers of this fact. What transpired, however, was that the woman was handed over to a sergeant who stated that the instruction was for the woman to be arrested. In fact, this was wrong. We addressed the poor arrest and custody processes that were evident on 10 February in our general report.

FINDINGS ON INVESTIGATION THREE

The female officer did not deliberately apply pressure to the complainant's chest or use excessive force against her.

A risk assessment was made by attending Police officers and a paramedic. Once the woman's injury was assessed, the paramedic and escorting officer took care to ensure her comfort.

Any disparaging comments made towards the woman were unnecessary and unprofessional.

Investigation Four – 22-11983

20. A woman complained that:
 - Police unlawfully arrested and detained her husband, who was peacefully protesting.
 - An officer used unnecessary and excessive force during his arrest.
 - Her husband sustained rib injuries during the arrest, which have affected his ability to work.
21. We determined the woman's husband was sitting on the corner of a low wall on Parliament grounds when he was approached by an officer and arrested at about 11am. He had heard trespass warnings being broadcast, but erroneously believed they did not apply to him as he was not on the lawned area. The charge was later withdrawn, as were many such charges from 10 February. The fact that the charge was later withdrawn does not affect the fact that the man's arrest was lawful.
22. The footage immediately before the arrest showed that the man was sitting on a wall. The man appeared relaxed with one leg over the other knee. There were quite a few people in the vicinity, including a woman holding a small child very close to the man. There were also a number of Police officers in the area. The scene was calm, and Police were not generally arresting people in that area.

23. Footage shows the officer who arrested the man moved in and placed his left hand on the man's left upper arm. They appeared to talk for no more than 20 seconds. The officer then grasped the man around the back of his neck using his right hand, then also brought his left hand to the same location and pulled the man. The man had his hands down by his sides. The officer pulled the man to the ground. The man landed on the paving stones face downwards. Three uniformed officers moved in to assist securing the man.
24. We concluded that the man did not use any physical force to resist arrest, and the officer was not lawfully entitled to use the force that he did. He should only use the minimum force required in a situation. He should have been aware of this and the action he took was unlawful. It was also completely unnecessary. There were plenty of officers in the area. If the man had physically resisted arrest, it would have been a simple matter to have called over another officer to assist.

FINDINGS ON INVESTIGATION FOUR

Police were justified in arresting the man for trespass.

As the man was not physically resisting arrest with force, there was no basis for the officer to use any force during the man's arrest. The officer's actions were an unlawful use of force.

Investigation Five – 22-13514

25. A man complained that:
- A group of Police officers came towards him while he was standing against a wall. Without even speaking to him, one of the officers grabbed him and pulled his head down. The officer was holding him by his neck, twisting it back and forth and choking him. The officer's toolbelt and buckle cut his head.
 - Officers then dragged him through the Police line and onto the steps in front of Parliament. They pushed him to the ground, piled on top of him and injured his back.
 - One of the officers grabbed his ear (partially tearing it) and dragged him along the steps, which cut and grazed his back.
 - Police rolled him over, held him face down, handcuffed and arrested him. He received a severe blow to his face. Police then hauled him to his feet and forced him to walk, doubled over, to the rear of the Parliament Buildings.
26. Footage of the arrest shows the man struggling against the officers and gripping the barrier as Police tried to gain control of him so they could apply handcuffs. We are therefore satisfied that the officers reasonably believed the man was using force to resist arrest. We accept it was reasonable for the officers to believe the man was intentionally obstructing the barrier and they urgently needed to move him. The crowd was becoming increasingly noisy and agitated, which made the officers concerned for their safety.
27. The footage of the arrest does not show clearly the entire period during which the officer was grappling with the man. It does show that the man was bent over, with the back and top of his

head against the officer's chest as the officer held onto the man and gradually pulled him through the small gap behind the barrier towards the steps. During this time other officers had to help loosen the man's grip on the barrier. The officer holding the man around the head and under his right arm did come into contact with the man's neck. However, there is no evidence to conclude that the officer was unnecessarily forceful or that he deliberately tried to choke the man.

28. Police did not pile on top of the man while he was on the ground. In fact, it was another arrested man who fell on top of him as Police were trying to pull both arrested men up the steps. While this was not best practice, it was a chaotic scene with a lot of officers crowded around trying to gain control of both men as people in the crowd were yelling and screaming.
29. There is no evidence that an officer grabbed the man's ear or deliberately struck him in the face. The officers also denied doing so.
30. Police provided first aid for the injuries the man received during arrest, and correctly ensured that he was assessed by ambulance staff.
31. We accept that the man sustained injuries to his ear, head and back during the arrest process. However, other than the cuts and grazes to his back, the footage does not provide any clarification as to how those injuries occurred. On the basis of the available footage, we found that the officers' use of force to overcome the man's resistance to the arrest was reasonable and proportionate in the circumstances.

FINDING ON INVESTIGATION FIVE

The officers' use of force during arrest was justified under section 39 of the Crimes Act.

Investigation Six – Head control techniques by the same male officer on three people during arrest (22-15443, 23-18036, 23-18024)

32. We investigated the same officer's use of force on three individuals during their arrests on 10 February. The officer restrained the head of these people in a manner which caused public consternation and we examined the techniques used by the officer.
33. In two of the cases, the arrested men had been taken to the ground, were lying prone on their stomachs and restrained by a number of officers. An officer who was not part of the arrest teams then came to assist and restrained the men's heads by taking a wide stance and pressing down on the head in a press up position, for approximately 10 seconds. This technique was referred to as 'planking' in public commentary.
34. In the first of these cases, we found the man was actively resisting arrest and officers were lawfully entitled to use proportionate force to overcome that resistance. Five officers were restraining the man, holding different parts of his body on the ground in order to handcuff him. The footage shows officers had this man under control and one officer was kneeling on his back and controlling his head with his hand. We did not consider the actions of the other officer who came to assist in forcefully holding the man's head to the ground (using the press up position)

were necessary or proportionate to the resistance the man was providing at the time. That should have been immediately apparent to the officer, and his use of force was unnecessary and excessive.

35. The second of these cases involved a 17-year-old male who was not resisting arrest after he was placed onto the ground. He was lying prone on the grass and the footage shows three officers quickly had the male under control, one each on his arms and one on his legs. The male's arms were secured behind his back at the time or very shortly after the officer came to assist and pressed down on his head in a press up position. The officer's use of force was unnecessary and excessive.
36. In the third case, a woman had taken off her clothes except her underwear and had rubbed coconut oil over her body to make it more difficult for Police to grip onto her. She had been arrested by two female officers and was lying face down on the grass with a blanket over her when the officer knelt on the woman's neck/back area to restrain her. The officer said he felt he needed to assist because the female officers were struggling to handcuff the woman. The officer denied his knee/leg was on the woman's head or neck and said it was on the shoulder area. Close examination of the footage shows it is likely to have been on the neck and back of the woman's head for a short period of time and this is what the woman reported.
37. The footage shows the female officers quickly had the woman under control and she was lying face down. The woman was not actively resisting arrest as the male officer claimed at the time he knelt on her. There was no need for the male officer to involve himself with this arrest and his use of force was unnecessary and excessive.
38. Police obtained medical evidence which outlines the risks of contact with the head, particularly if others are controlling or manoeuvring other parts of a person's body. This evidence indicated that the risks include facial injuries, skull injuries or upper cervical/atlanto-occipital/vertebral artery injuries. The head control manoeuvres which the officer applied was dangerous and high-risk. It is a restraint that required clear communication within the team to be safe and effective. This is particularly because if officers move other parts of the body this can cause significant issues or injuries.

FINDINGS ON INVESTIGATION SIX

Other officers had sufficient control of the arrests of the two men and the officer's use of force by pressing down on their heads in a press up position was unnecessary and excessive.

Other officers had sufficient control of the woman's arrest and the officer's use of force by kneeling on the woman's shoulder/neck/head was unnecessary and excessive.

RECOMMENDATION

39. We are concerned about head control techniques in light of the medical evidence outlining the risks. The Authority accepts that some form of head control or restraint may be necessary during arrests, but are concerned to ensure that Police examine this more closely. Therefore, we have recommended that Police:

- Reassess any use of head control techniques as part of an overall review of the control and restraint model. This should include:
 - compiling a new comprehensive defensive tactics training module and manual (setting out all approved tactics); and
 - ensuring training is consistent across all forms of training.
- Establish a central approach to governance and approval of all tactics and techniques that are trained at Police College and in Districts.

COMPLAINTS ABOUT EVENTS ON 21 – 23 FEBRUARY 2022

40. Police had closed the roads around Parliament under section 35 of the Policing Act 2008. On 21 February concrete bollards were put in place at critical points. This was a critical strategy for Police to change the protest’s trajectory. It not only maintained traffic flow through significant roads and intersections, but much more importantly for Police it provided a mechanism for them to control the protest by preventing the occupation expanding its footprint and enabled its size to be gradually shrunk over time.
41. We investigated three incidents which occurred during this time; two concerning uses of force to people and one concerning Police actions in relation to a family driving a van.

Investigation Seven – 22-13357

42. A woman complained that on 21 February 2022 she was standing in a line of protesters when an officer punched her with three short jabs to the right eye for no reason.
43. The officer accepts he struck the woman twice. He was part of the team whose role was to support concrete bollards being installed at specific places, with the aim of stopping the protest expanding in numbers and geographical area. This involved clearing areas of protesters to enable the bollards to be safely placed into position. He described the crowd of protesters as being angry, verbally abusive, and aggressive towards Police. He said protest activity had been particularly resistant in an earlier location at Bunny Street where protesters attempted to tie themselves to a concrete bollard before it was lifted into place.
44. The last location for the bollards was at the Molesworth Street/Lambton Quay intersection. It was still dark and early morning. There was continuing pushing and crushing particularly at the front of the Police line where officers engaged with the crowd of protesters. The officer was in the front line of Police in a single belt grip formation. This meant he was holding onto the belt of the officer to his right, with the officer to his left holding onto his belt so that officers created an uninterrupted line. The officer only had his left arm free to hold or push protesters back as required. He was wearing protective body armour and gloves but had no other equipment. He did not have access to a baton or a shield and was not wearing a helmet.

45. He felt a hand reach inside his body armour around his left chest area and immediately reacted to that threat and to defend himself from assault.
46. The officer said he struck out with a closed left fist into the woman's face. He described the action as a jab. It was in an upwards, backwards movement which meant the knuckles of his left hand hit her face. The woman did not remove her hand, so he struck out a second time. After this second strike he says she removed her hand.
47. We are satisfied that the officer genuinely believed there was a hand inside his body armour, and he was threatened by that. In those circumstances the officer was justified in using some force to address the threat he believed he faced.
48. We found that the officer could have struck down on the woman's arm to remove her hand from under his body armour. This would have been less forceful than striking her in the face and likely have caused less harm. The officer accepted he could have taken such action but felt this was a weaker option. We did not agree with this assessment and consider it would have been easy to do and a more suitable response to the threat he faced.

FINDING ON INVESTIGATION SEVEN

The officer was entitled to use force to defend himself in the circumstances as he believed them to be. However, striking the woman in the face was not reasonable as he could have struck down on her arm to remove her hand from underneath his body armour.

Investigation Eight – 22-13624

49. A man complained that on 22 February 2022:
 - An officer punched him in the head several times and gouged his eye leaving him with facial injuries that required medical attention.
 - The officer stole his phone.
50. On that day Police were supporting the movement of the concrete bollards. A car was driven at a line of officers and an officer was shoulder-charged to the ground, which caused tensions to escalate, and Police began to push protesters back to allow officers to move away from the area.
51. The officer who used force said he did so as the man was resisting arrest and also, he was acting in self-defence.
52. It was not a general part of the Police operation to arrest protesters that day, but rather to try to move the concrete bollards with the minimum fuss. We examined whether the man's arrest for obstruction was lawful and concluded the officer had reason to suspect that the man had obstructed Police and therefore the arrest was lawful. The officer also could have arrested any of the other protesters who did not move away from the area when instructed.
53. However, the man's arrest was unnecessary in the sense that it was not part of the Police operation to arrest protesters and was hard to understand as he was not doing anything

different from all the protesters around him. At the time the man was in front of the portable toilets. The man was not violent but appeared to be angry. The man and others were attempting to protect the area and they were not complying with instructions to move away and fall back.

54. There were three separate uses of force by the officer which we examined:
- Reaching through the line and using his right fist to hit/punch the man twice to the left side of his head.
 - Reaching through the line and his left open hand, wearing a black glove, coming into contact with the man's right eye area. The officer's hand moved in that area for two seconds before it lowered to his cheek. The officer's thumb was under the man's nose. The officer's hand moved again, and his left thumb then entered the man's right eye area forcing the man's eyebrow up and his head back. The man ducked or moved his head down as a result of the pressure to the eye, and the officer moved closer to the man.
 - Punching the man several times in the stomach region. This occurred after the man had rushed at the officer and attempted to deliver a blow to the left side of the officer's head.
55. The officer accepted punching the man once but denied eye-gouging him. He said he used force as the man was resisting arrest and he was also acting in defence of himself and other officers.
56. The officer's first use of force when he reached through the line was to arrest the man. He accepted he went to grab the man as he attempted to get him around the head and pull him from the line of protesters. When shown the footage, he accepted his right fist connected twice with the left side of the man's head. The man was standing with other protesters and not being violent or aggressive to Police or anyone else at this point. As such there was no lawful basis under section 39 for the officer to use any force. The man was not using force to resist arrest. At most he was uncooperative and pulling away.
57. The second use of force occurred less than ten seconds later when the officer reached through the line again and made contact with the man's eye area. At this stage the officer then put his hand around the man's head and pulled him from the crowd. The officer did not believe his thumb went into the man's eye, and said there was no deliberate attempt to gouge the man's eye. He said he was attempting to control the man's head and remove the man from the line of protesters. If contact was made with the man's eye area, the officer said there was no force or pressure on his part. Again, we found the man was not using any force in resisting arrest and so there was no lawful basis under section 39 for the officer to use any force at this stage.
58. The officer said the second and third uses of force were also in defence of himself and other officers.
59. Having assessed all the material, interviews and review of the different pieces of footage, we have concluded that when the officer reached through the line with his left arm his open hand came into contact with the man's right eye area. The officer's hand dropped down then returned to the eye area where the officer's left thumb entered the man's eye socket, exerting pressure causing the man's eyebrow to lift. The officer then pulled the man from the line.

60. This second use of force was pre-emptive and not in defence of himself or another officer. This use of force was excessive.
61. The third use of force was when the officer punched the man several times in the stomach region after the man had lunged at the officer and hit him. We consider the man's actions were understandable as he was reacting to unprovoked and unjustified assaults.
62. Although the force the officer used on the man prior to this was excessive, the officer's third use of force was in self-defence. The officer's actions were reasonable and proportionate to the threat the man posed to him at that time.
63. The man said he believed the officer took his mobile phone after it had dropped to the ground and lied about this to ensure that the footage the man had recorded would not be available. The officer denied taking the phone.
64. There is footage showing an officer nearby seeing something on the ground and handing this to the officer who attached this to his upper vest area. The officer explained to us that when he was on the ground the man grabbed his Police radio cord and pulled it while thrashing about. His radio was dislodged, and he was given this by another officer and put it away, which is what can be seen on the footage.
65. We cannot conclude that the footage showed the officer taking the man's phone. The explanation the officer provided was reasonable.

FINDINGS ON INVESTIGATION EIGHT

The officer's first and second uses of force were unlawful.

The officer's third use of force (punching the man in the stomach region) was in self-defence, reasonable and proportionate.

There is no evidence that the officer stole the man's phone.

Investigation Nine – 22-13473

66. A woman complained that on 23 February 2022:
 - Several Police officers attacked the van that she and her family were in.
 - An officer broke one of the windows of the van, causing glass to land on both her daughter and her grandchild.
 - An officer reached through the window and tried to remove the keys from the ignition.
 - No officer signalled them to stop and she believes that the family, who are Māori, were racially profiled.
67. From paragraph 585 of our general report we explain how Police managed traffic and sought to contain the area occupied by the protest and remove vehicles.

68. Sky Stadium agreed that protesters vehicles could be relocated to their carpark and park there for free. The woman took up that option and moved their van there shortly before 23 February.
69. The woman's van and the other vehicles then drove from Sky Stadium and wanted to re-enter the protest area. Bollards had been placed to prevent this. It was illegal for the van to be parked in this area and Police were entitled to try to stop her from doing so. It is clear that when Police saw protesters moving bollards, they reacted quickly and tried to form a line to prevent vehicles (including her van) from passing through and re-entering the protest site. In our view, this was reasonable. It would also have been reasonable for Police to take the van keys to stop it from being driven through.
70. The officer who smashed the van's passenger window initially saw it pull out into the road and into the right-hand side of the Police line in front of him. There were over 20 officers running in formation down the road, two or three abreast, to get to the bollards as quickly as possible. The van hit a female officer who was a couple of rows ahead of him and knocked her over. The driver forced the van through the Police line. Multiple officers were yelling and waving at the driver to stop but he did not do so. One officer put his hands on the bonnet of the van while it was still moving, trying to speak to the driver through the front windscreen, and shouted that the driver was under arrest. The driver still did not stop. The officer also shouted to the driver telling him he was under arrest for using the van as a weapon against Police.
71. The officer believed the driver had no intention of stopping and was using his van as a weapon by driving into officers who were on foot. The officer punched the left middle passenger window. His intention was to cause a loud noise, to get the driver's attention and get the driver to stop. He was trying to protect Police and others. He did not intend to smash the window and was surprised when that occurred. He did have a baton with him but did not use it. We found this was evidence that he was not intending to smash the windows. The van windows were tinted, and the officer was unaware that people were in the passenger seats. As soon as he saw a female and child in the rear passenger seat, he said he called out to other officers to inform them there was a child in the van.
72. Other officers did use batons and, although we did not identify or interview these officers, it seems likely they were doing so for the same reason, namely, to get the driver to stop and avert the danger they believed they were facing.
73. We also found the family were not stopped or targeted due to their race. Rather, this was due to what the officers saw the van doing and their assessment of the risk that posed.

FINDINGS ON INVESTIGATION NINE

Police were justified in trying to stop the woman's van re-entering the protest area illegally.

Police actions in striking the van which caused a window to smash were reasonable in defence of themselves and others.

Police did not racially profile the woman and her family.

COMPLAINTS ABOUT EVENTS ON 2 MARCH 2022

74. There were 10 complaints about events on 2 March, which was the day Police undertook a large-scale operation involving about 600 Police officers to clear protesters, vehicles, and structures from the protest site.
75. Eight of these were about Police use of force on protesters. In five of the eight cases we found the Police use of force was justified, in two cases that the use of force was excessive and in one case could not make a finding. One case related to the impoundment of and damage to a vehicle, and the other case concerned the arrest of a young person who was heading home and not involved in the protest.

Investigation 10 – 22-12533

76. A man complained that about 6am he was walking up Hill Street when he met many Police officers wearing helmets and carrying riot shields and batons. He said he was assaulted when he asked them what they were doing, and then the officers dragged him through the Police line, bashed his face, kicked him in the back and threw him to the ground. As a result, he lost his glasses and lost significant vision in his right eye.
77. It is clear from our footage review that there was an ongoing physical engagement between Police officers and protesters lasting several minutes as Police moved down Hill Street. However, visibility is poor due to the early hour of the morning, foliage of trees on Hill Street, and the distance from which the footage taken. Therefore, it is not possible to identify a specific incident involving the man, or which individual officer(s) were involved.
78. There is footage of the man with obvious injuries around his right eye at the intersection of Hill and Molesworth Streets. However, that does not provide any clarification as to how those injuries occurred or who may have caused those. Accordingly, we were unable to progress our investigation and make findings on the allegations in the complaint.

FINDINGS ON INVESTIGATION 10

We were unable to make findings on the allegations of excessive force as we could not identify the officer(s) involved, and thus progress an investigation.

Investigation 11 – 22-13390

79. A woman complained that an officer unnecessarily hit her in the face with a riot shield as she was walking peacefully up and down a line of Police officers. This knocked her to the ground. Consequently, she sustained injuries to her teeth and nose, and her glasses were broken. She suffered from Post-Traumatic Stress Disorder, anxiety and insomnia as a result of this incident.
80. There is no dispute that the officer pushed the woman with his shield, which he said was in self-defence. At approximately 6.20am the woman was near the Police shield line on the corners of Molesworth and Aitken Streets. The officer was in the line holding a long shield, blocking off access to Molesworth and Hill Streets.

81. The officer explained that two men who he had pushed away with his shield earlier were shouting abuse at him and his colleagues and refusing to leave. The two men slowly started to creep closer and closer towards the officer and appeared threatening. The officer said he warned them three times to stay back. The officer saw a woman behind the two men.
82. The woman started to walk towards the officer saying, *"You can't keep us out, we have a right to be here."* She then started to quicken her pace towards the officer as though to run at his shield to get past him.
83. At this time, the officer believed that if he did not act, the woman would have gained enough momentum to shift his position and knock him off balance which would have exposed the officer unshielded towards the two males.
84. When the female was less than a metre away from the officer he held his shield with both hands, yelled in a loud voice *"get back"* and pushed the shield into the woman to move her away. She stumbled back approximately two metres before falling backwards. She was disorientated and unstable, and fell to the ground.
85. It is clear from the explanation given by the officer that he decided he needed to act immediately as he felt it was a volatile situation and he was vulnerable to attack. He felt threatened by two men in front of him who had followed him to this part of the Police line. He said the woman moved suddenly from behind these two men and rapidly approached him. He considered the woman to be assaultive and acted in defence of himself when using his shield.
86. The issue was whether a firm push by the officer with his shield was a proportionate response to the woman getting close to him and potentially trying to get past him. The footage shows the woman moving towards the officer and getting very close to him. He uses his shield forcefully to push the woman back. She stumbles back and falls to the ground. She then gets up and approaches the officer again swearing at him.
87. We believe that the best course of action would have been for the officer to simply hold the line rather than step forward and push the woman with the shield. But this is an assessment made with the benefit of hindsight and does not take into account the circumstances that the officer faced that morning. Ultimately, our assessment is that the officer's actions and use of force were reasonable and in self-defence. It is regrettable that the woman suffered injury during the incident.

FINDINGS ON INVESTIGATION 11

The officer's use of his shield to push the woman away was reasonable in self-defence.

Investigation 12 – 22-15092

88. A man complained that Police officers used excessive force by:
 - Dragging him through the Police line.
 - Punching and kicking him repeatedly, and pepper spraying him in the face at close range.

- Handcuffing him with plastic cuffs that caused wounds.
 - At Wellington Central Police station, punching him in the throat and using force to take his jacket off him.
89. The man accepted he resisted arrest. The footage from the Police helicopter which we have reviewed appears to show he was resisting officers who were trying to remove his arms from under his body. No punches or kicks from officers are seen in this footage. The only contact between Police and the man below the man's waist is one officer kneeling on the man's buttocks. We found that if contact was made with the man's legs it is likely that, in arresting another struggling protester nearby, those arresting officers came into contact with the man's legs.
90. The man was out of the Police helicopter camera view for approximately 12-13 seconds. During this time another two officers took over his custody. The man is seen in further footage having walked approximately 2-3 metres. There would be insufficient time for Police to have punched the man "*quite often*" in this short time period when he is out of view. Further, for the time he is in camera view, there is no evidence that he was punched, kicked, sprayed or that officers stood on his legs.
91. The man complained that officers sprayed him at close range after he had been handcuffed. There is nothing in the footage review that would indicate that this happened while he was on the ground being secured.
92. The man was wearing goggles up to the point he was pulled from the protest line. He can be seen wearing the goggles when he is being handcuffed on the ground, however in footage after this point it cannot be verified if he is still wearing the goggles.
93. The two officers who escorted the man from the area said that they did not witness him being sprayed and that he did not appear to have been sprayed. There is conflicting evidence as to whether the man was treated or complained about his eyes to officers at the scene or when in custody. There is no evidence from the footage review that pepper spray was used on the man.
94. If the man's account is accurate, in the 12-13 seconds when he is not visible on footage, he would have had to have been punched multiple times, kicked or been stood on his legs, and sprayed directly to the eyes. We do not consider that is feasible.
95. Additionally, when he was at Wellington Central Police station, he did not complain to officers of being sprayed, assaulted or injured. Further, the custody records do not record any complaint of that nature.
96. The man also complained that he was assaulted at Wellington Central Police Station. He initially said he was punched in the throat as he was taken from the van outside the Police station. He later modified this to say that the officer could have been coming in to grab him but missed and got him in the throat. He was not injured as a result. He also said, when he was in the cells he was forced onto a bunk and his jacket was forcibly removed by the same officer.

97. The man described the officer who dealt with him. The two officers whose names were provided by Police as working that day and potentially fitting the description were interviewed by us and claimed no knowledge of the man.
98. The man accepted he was non-compliant and passively resisting throughout. We have not been able to identify the officer who took the man from the van and removed his jacket and, therefore, have been unable to obtain that officer's account. However, we found that the actions the man described which involved an officer grabbing him by the clothing and forcibly removing his jacket did not amount to an excessive use of force.

FINDINGS ON CASE 12

There is no evidence that Police officers punched, kicked or used pepper spray on the man during the arrest procedure. They did not deliberately stand on his legs. Therefore, we find that Police did not use excessive force during arrest.

There is no evidence that Police used excessive force at Wellington Central Police station.

Investigation 13 – 22-12971

99. A woman complained that a Police officer slapped her mobile phone out of her hand, stomped on it and kicked it to the kerb; and as she tried to pick up the phone, the officer then shoved her to the kerb and hit her with a shield repeatedly.
100. She also complained that Police used excessive force on an elderly man who came to her rescue, and was struck by Police.
101. The footage we have reviewed shows the woman on the road in front of the Police line. It shows officers passing her to make arrests and push some people back. At no time did she go behind the Police line. The footage clearly shows the officer knocking the phone out of her hand, but not shoving her to move her away as she stated. When she tried to retrieve the phone, the officer, and another male officer, pushed her to the ground.
102. The officer did not say he was trying to arrest the woman. Indeed, there was no basis for him to do so. The woman was not committing any offence. She was not obstructing Police in any way. She was not resisting arrest or using any force towards officers. There was no basis for the officers to use any force against her. In our assessment, the officer's actions in knocking the phone from the woman's hand and pushing her to the ground constituted uses of force which were gratuitous, unnecessary and unlawful.
103. The other officer with the shield assisted to keep the woman on the ground. We were not able to identify this officer and therefore have not been able to interview him to get his explanation for this. The footage does show the incident but does not clearly show the extent of force used. It is clear that the woman remained on the ground for a period and did not appear to have any injuries when she stood up and walked away. Again, the officer with the shield did not attempt to arrest the woman (and there would have been no basis for this). In our view his actions were also gratuitous, unnecessary and unlawful.

104. We have reviewed available footage of Police's interaction with the man who may have come to assist the woman. This shows an elderly man rushing in from the footpath towards the officers dealing with the woman. He pushed the two officers away. A female officer saw this and turned to grab the man. As she did this, the elderly man took hold, or attempted to take hold, of the female officer's left arm. The male officer (who had earlier knocked the woman's phone away) immediately punched the man to the head with his left fist, which also knocked the man's arm down away from the female officer, then threw a second right-handed punch to the man's head area. The man staggered back and fell to the pavement, seemingly unconscious.
105. We have not identified this man and therefore have been unable to speak to him about his reasons for getting involved or his recollection of what occurred.
106. The male officer said he had punched the man twice in the head in an immediate response to what he believed he saw, namely the man assaulting a female officer. While the footage shows that the elderly man did not strike the female officer at all we do not doubt this is what the male officer believed had occurred at the time. He had spent several hours in a very volatile riotous situation seeing violent behaviour from protesters and officers being injured. This inevitably impacted on the way he assessed what was occurring.
107. However, the male officer did not take any time to assess the situation as he should have done or attempt any other type of response before throwing two punches.
108. While we accept some level of force would have been justified to address the perceived threat to the female officer, we do not accept that two closed fist punches to the head was a proportionate response. Punches to the head are a significant use of force with the potential to cause serious injury. Rather than punching the man in the head, the officer could have pushed him away and then assisted the female officer to arrest him. The footage shows multiple officers who could also have assisted in the arrest if required.

FINDINGS ON INVESTIGATION 13

There was no justification for officers to knock the phone from the woman's hand or push her to the ground. These actions amounted to excessive use of force and were unlawful.

The officer punched the elderly man twice in defence of a female colleague. While some force was certainly justified, two punches to the head in quick succession were an excessive use of force.

Investigation 14 – 22-12771

109. A man complained that he was standing on top of a concrete pillar/column beside the main gates at Parliament, broadcasting live footage of events occurring through Facebook, when Police officers directed a fire extinguisher at him and two others for over 30 seconds. This left him unable to see or breathe for a short period.
110. At paragraphs 808 to 810 of our general report we discussed the Police general use of fire extinguishers and cover the factual situation that existed when the officers sprayed fire extinguishers through the main gates at protesters.

“At this time the Police skirmish line inside the Parliament grounds had advanced past the gate, but the Police line on Molesworth Street was further back. Protesters on the street were throwing items over the gate and hitting the backs of Police in the skirmish line inside Parliament grounds.”

111. We found the use of fire extinguishers to push back protesters throwing items at the back of the Police line was justified as a means of defence. We recorded that we were also investigating this complaint about the use of the fire extinguishers on people standing on the column.
112. There were three officers who used fire extinguishers on the people on the column. We were not able to identify two of those officers and obtain their justification for using fire extinguishers that day.
113. The officer who first sprayed the man was part of a team following the Police forward skirmish line, clearing out tents and assisting with arrests made by staff in the forward line. He had no helmet, other headgear, or shield. He had his general body armour and baton but no other tactical options such as Taser or pepper spray. He had seen events unfold and deteriorate throughout the day. He did not have adequate safety equipment and had been assaulted by projectiles hitting him that day before this incident occurred.
114. It is clear from the explanation given by the officer that he decided to use the fire extinguisher to spray at the man on the column who he believed had a black metal pole which could be used as a weapon against Police. He acted to protect himself and others and prevent the man throwing the object at him or other Police staff.
115. The officer’s first deployment of the extinguisher spray was continuous for approximately 14 seconds until it appears the extinguisher was depleted. He then walked away and obtained a second fire extinguisher, returned and continued deploying it even though the three people on the column had their backs to him and were in the process of getting down from the column. He then used this fire extinguisher for a third time just on a woman after the two men had climbed down.
116. The officer believed a man standing on the column had a black metal pole which could be used as a projectile/weapon against Police. In those circumstances he was justified in using the fire extinguisher as a weapon of opportunity to spray for a short period as a deterrent and as protection for himself and other officers. This is what the officer says he did. He was justified in taking this immediate action without giving a warning as the threat of injury was immediate. The man who made the complaint and another woman were in close proximity on top of the column, and it is likely that the spray would also affect them.
117. However, there was then a second phase when the officer and the two others repeatedly sprayed fire extinguishers at people standing on a column for extended periods. By this stage, the circumstances had changed. The people had already been sprayed, had turned their backs and were climbing down from the column. We did not accept that the officers in question could have perceived that the three people posed a threat at that point. It followed that the officers’ actions in spraying these people again were unjustified.

FINDINGS ON INVESTIGATION 14

The officer's initial use of the fire extinguisher for a short period was in self-defence and justified. However, he and other officers were not justified in further spraying the three protesters after they had turned their backs and were trying to climb down from the column.

Investigation 15 – Police use of sponge rounds (22-12786, 22-12931, 22-14908)

118. We interviewed all of the Police officers who deployed sponge rounds on 2 March 2022, which enabled us to question them about their location and their reasons for using sponge rounds.
119. In Part 7 of our general report, we explain in detail the events leading up to the use of sponge rounds on 2 March, along with our assessment of the reasonableness of the Police decision to use them. There is a section on the use of sponge rounds (starting on page 198, paragraph 835). We found generally that the Police's use of sponge rounds was justified under sections 43 and 44 of the Crimes Act, which are provisions about the use of force to suppress a riot. Police were also acting in defence of themselves and others (both Police officers and the public), so were justified in using sponge rounds under section 48.
120. By the time sponge rounds were deployed in the late afternoon (around 5.44pm), Police were dealing with a riot and urgently needed to overwhelm the protesters and prevent them from reclaiming the Parliament grounds and/or spreading into the Lambton Quay shopping area. Police directed their use of sponge rounds against protesters who were assaultive and genuinely posed a risk of harming officers.
121. We examined three specific uses of sponge rounds:
- A complaint from a man who was in Bunny Street and said he should not have been fired at by Police because he was not offering any threat or aggression towards Police officers.
 - A complaint from a woman who was walking down Bowen Street and said Police fired at her without cause, which left her ankle swollen and bruised.
 - A case involving a woman who sustained a head injury (skull fracture and scalp laceration). She did not make a complaint, but we examined the circumstances due to the extensive nature of the injury she received.
122. In the first case, we accepted the man was not an aggressor or acting in any way that would justify Police firing at him. We found that a Police officer struck the man with a sponge round, causing his phone to break. We were not able to identify the Police officer who fired the sponge round that hit the man, and so have not been able to establish why that shot was fired.
123. In the second incident we were assisted by a 10-minute media clip showing clearly what occurred. The Police skirmish line can be seen forming up behind the concrete bollards at the intersection of Bowen Street and Lambton Quay, at which point the woman can be seen wandering around near the front of the protest crowd on Lambton Quay. While she was not throwing any objects, she was surrounded by others who were throwing bricks and homemade

explosive devices at the Police line. About a minute later, the crowd begins to move down Lambton Quay towards Bunny Street, apparently retreating in response to Police officers firing sponge rounds. The footage shows that, just prior to being struck, the woman was positioned in between two men, one throwing explosives and the other bricks. A brick was thrown seconds before she was struck by a sponge round.

124. In the third incident we located footage which showed the woman with a male who repeatedly threw brick pavers and other projectiles at a line of Police officers.
125. In all three cases we found no evidence that any Police officer did in fact fire at the person who was hit. Rather, we found that Police did aim and fire at protesters who were acting aggressively to Police at a time when the situation in and around Parliament had deteriorated into a riot. We were satisfied that each of these shots was not intentionally aimed at the individual, rather each of them was hit by an officer either missing the intended target or by a round that ricocheted as the individuals were in the vicinity of aggressors within the crowd.
126. Each of these individuals should have been aware of the situation and seen that protesters were throwing objects at Police. By staying in the vicinity where protesters were acting in this manner, they ran the risk of being harmed.

FINDINGS ON INVESTIGATION 15

The officers' use of sponge rounds was justified as they were dealing with a riot. In all three incidents we are satisfied the individuals were hit by an officer missing their intended target or by a round that ricocheted off the target (or another object). All three were close to aggressors within the crowd and, by staying there, ran the risk of being harmed.

Investigation 16 – 22-13107

127. A woman complained that her 16-year-old son was arrested for throwing bricks at Police, something he denied he had done. He was subsequently formally warned for obstructing Police and wilful trespass. She also alleged Police used excessive force during her son's arrest and that Police staff abused and threatened her when she went to collect her son from a Police custody area behind Parliament.
128. None of the footage we reviewed shows the son throwing things at Police. His whole demeanour gives the impression of observing and maybe filming.
129. The footage shows there was a large Police presence on and around the steps in front of Parliament at this time. There was also a considerable amount of violent activity aimed at Police by either protesters or others who have joined in.
130. The officer recorded as the arresting officer did not actually undertake the arrest. Rather, he escorted the young man to the processing area following his arrest. We were unable to identify the officers who actually detained and arrested the young man. As such, we were not able to investigate the allegations that excessive force was used during the arrest.

131. A review of Police activity around the Parliamentary area on the late afternoon and early evening of 2 March highlights that there were a considerable number of officers at various cordon locations. While the woman provided us with details of her experience, it was not possible to identify who the specific officers were that she had dealings with on that evening. Accordingly, we could not speak to anybody about their interactions with her or further investigate that aspect of her complaint.
132. Following the completion of our inquiries, we discussed our findings with Police who agreed that the case against the young man was not sustainable and that they would withdraw the warnings.

FINDINGS ON INVESTIGATION 16

The young man's formal warnings for obstructing Police and willful trespass were not correct and Police agreed to withdraw those.

We were unable to make findings on the allegations of use of excessive force during arrest, as we could not identify the arresting officers and thus progress an investigation.

We were unable to make findings on the allegations of abuse and threats from Police towards the mother, as we could not identify the officers who interacted with her and thus progress an investigation.

Investigation 17 – 22-13177

133. A woman complained that Police:
- Smashed her car's windows and deflated its tyres when it was parked at the bus terminal on 2 March 2022.
 - Removed her car with a forklift and moved it without attempting to contact her.
 - Refused to let her get possessions, including medication, from her car when it was in Porirua.
 - Left it parked in Trentham where it was further vandalised and damaged.
134. Police had a vehicle extraction plan as part of their operation to clear Parliament grounds and the surrounding area on 2 March 2022. We deal with this plan from paragraph 916 onwards in our general report. There can be no serious doubt, in our assessment, that it was reasonable for Police to clear vehicles from the streets. The woman's vehicle was in the main bus terminal and causing a general obstruction. Wellington City Council had delegated powers to Police under section 164 of the Local Government Act 2002 to impound property which included vehicles. Police therefore had lawful authority to impound the woman's car.
135. Police acknowledge they deflated two tyres on the car. They did this to a number of cars that day. This was to prevent vehicles from being driven and used as weapons against Police while they were still in the area around Parliament, before Police could arrange for the vehicles to be towed away. In our view, this was a reasonable approach for Police to take in circumstances involving a riot.

136. Police records say that two of the car's windows were smashed when they recovered it. The woman accepted she had smashed the rear window before 2 March. We examined all the available footage that the woman provided as well as Police photographs and footage. On the balance of probabilities, we concluded that Police officers smashed three windows being the rear passenger and driver side quarterlight windows and the driver's side rear passenger window.
137. We were not able to identify the officers who smashed the windows. But the footage we examined shows that there were no members of the public around the car at the relevant time. The photographs of the car after impoundment and Police records supported our conclusion that it was Police officers who smashed these three windows. As we do not know which officers did this, we were not able to seek an explanation for this action.
138. Police accept it is likely they smashed at least one of the windows. They say this tactic was generally used to enable Police to search vehicles for occupants. This car had tinted windows and there was paint across at least one of the back windows which made it difficult for Police to see into the car. We did not accept this rationale. Given this woman's car was unlocked, Police could have opened the doors to check for occupants. There was no need for Police to smash the car windows. In our view, this was an excessive use of force on their part and amounted to wilful damage.
139. All the impounded vehicles were towed to a facility at Prosser Street in Porirua. The woman went there on 4 March to recover her car. She recorded her interaction with officers there which showed she was told that the car would not be released until the following Monday (7 March), and she was refused access to the car to get belongings, including medication. The officers did not provide any explanation or reasons for refusing to allow the woman access to the car or why it would not be released.
140. We found that Police did not follow internal guidance recorded in their Vehicle Extraction Plan. Police officers at the facility did not allow her access to the car and provided no justification for this. They made no enquiries with her about her intentions and provided no justification for not releasing her car. This was unreasonable. They should have allowed her to retrieve belongings and made further inquiries before determining whether her car could be released.
141. Over the weekend of 5/6 March the car was moved to Trentham. The woman discovered through social media that it was out on a street and a friend went to see it for her on 8 March. The woman said she had no contact from anybody in Police advising her where her car was and how it could be collected.
142. Nine vehicles were moved from Prosser Street to Trentham. Police did put a sign on the gates at Prosser Street on 6 March advising owners that their vehicles had been moved to Upper Hutt and provided a contact phone number so that owners could arrange the return of their vehicles.
143. On 7 March an officer started contacting owners to advise them where their vehicles were, arrange collection and seek permission for vehicles to be placed onto Dante Street. We examined the notebook of this officer. He recorded trying to call the woman on 7 March on her correct number, but that the call went straight to voicemail. There was no record of whether a

message was left. There was no record that a text was sent or if any further attempts were made to contact the woman. The officer told us he was likely to have tried to call her again with the same result, but he did not record having done so.

144. The officer dealt with all nine vehicles. He successfully contacted seven owners and released four vehicles back, parking the other three vehicles on a street with the consents of the owners. The owner of the eighth vehicle was eventually contacted and consented to the vehicle being parked in the street. It appears the woman was the only owner Police did not actually contact.
145. On 7 March the woman's car was moved out onto a street. This was approved by a senior officer who advised us that Police did not have the capacity to store vehicles for unknown lengths of time and were treating the woman's vehicle as abandoned property. Police were aware of the security risk given the car had broken windows.

FINDINGS ON INVESTIGATION 17

Police had the power to impound the woman's car on 2 March 2022. It was reasonable for Police to deflate two of the car's tyres. Police smashed three of the car windows and had no reason to do so. This was wilful damage and unlawful.

Police should have allowed the woman access to her car on 4 March to retrieve belongings. Their refusal to do so was unreasonable.

Police should also have assessed on proper grounds whether the car could be released to the woman on 4 March and provided an explanation for their decision. Their failure to do so was unreasonable.

Police should have made further attempts to contact the woman, including by text, before putting the car out on a public road.



Judge Kenneth Johnston KC

Chair
Independent Police Conduct Authority

14 December 2023

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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