

IR-01-22-6219

3 June 2022

[REDACTED]

Dear [REDACTED]

Request for information

Thank you for your request of 4 March 2022, in which you requested the following:

I'm trying to find information and notice of the trespass notice that was issued to the protestors - in Wellington on and around Parliament grounds.

1. When was it issued
2. Is there duration around the trespass notice
3. was there a time limit given on when the protestors were to move out by

Your request has been considered in accordance with the Official Information Act 1982 (OIA), and I can now provide the following response.

As you may be aware, the Independent Police Conduct Authority (IPCA) has commenced an independent investigation and review (Review) of the policing of the occupation on and around Parliament grounds in Wellington during February and March 2022 (Protest).

Details of the scope of the Review are available on the IPCA's website¹ and you will note this scope includes the powers used to keep the peace, maintain public safety, enforce the law, and provide community support and reassurance, and the tactical exercise of those powers. It also includes how Police balanced the rights of protesters with the rights of other people throughout the course of the Protest.

Whilst this Review is underway, information relating to the issues under investigation and review is expected to be the subject of examination by the IPCA under its powers of investigation under the IPCA Act 1988. With this Review commenced, there is a strong public interest in allowing these matters to be considered in the round by the IPCA.

We consider that the information requested tends to go to the heart of the matters that are under investigation and review by the IPCA. Where such information is available, it is withheld in reliance upon section 9(2)(ba)(ii) of the OIA. It is in the public interest for the Review to be completed without earlier predetermination of the matters it is considering.

In the meantime, I can confirm that there is no requirement under the Trespass Act 1980 to give a time limit in which a person must leave once they have been trespassed. Once a person has been warned to leave, they are committing an offence under that Act if they neglect or refuse to do so. You can find more information regarding trespass notices on our website.² This also includes a link to the Trespass Act 1980.

¹ <https://www.ipca.govt.nz/Site/publications-and-media/2022-media-releases/2022-mar-24-investigation-review-occupation-parliament.aspx>

² [Trespass notices | New Zealand Police](#)

Police National Headquarters

180 Molesworth Street, PO Box 3017, Wellington 6140, New Zealand
Telephone: 04 474 9499. www.police.govt.nz

You may also be interested in the following publicly available statements relating to the trespassing of protesters from the Parliament precinct and surrounding areas:

<https://www.police.govt.nz/news/release/update-protest-activity-parliament-grounds-1?ref=/news&search=&cmin=2022-02-01&cmax=2022-03-01>

<https://wellington.govt.nz/contact-us/information-requests/responses-to-information-requests/information-relating-to-protest-activity>

<https://www.stuff.co.nz/national/127776472/thousands-of-students-may-have-to-learn-from-home-if-protest-continues>

The IPCA anticipates the Review will be completed and reported on by 31 March 2023. Police recognises the importance of transparency in these matters and looks forward to the release of the IPCA's report, at which time more detailed information regarding the Police response to the Protest will likely be publicly available.

Please note that as part of its commitment to openness and transparency, Police proactively releases some information and documents that may be of interest to the public. An anonymised version of this response may be publicly released on the New Zealand Police website.

You have the right to ask the Ombudsman to review my decision if you are not satisfied with the response to your request. Information about how to make a complaint is available at:
www.ombudsman.parliament.nz.

Nāku noa, nā



David Greig
Superintendent
New Zealand Police

IR-01-22-7384

3 June 2022

[REDACTED]

Dear [REDACTED]

Request for information

Thank you for your request of 15 March 2022, in which you requested the following:

- 1. I am requesting documentary material relating to the structured analytic tools (SAT) used by the New Zealand Police during the recent Operation PARLIAMENT response to protest activity. In particular, I am seeking specific analytic and assessment-related products - including intelligence assessments and threat assessments - that were produced by Wellington District FIC and National Intelligence Centre to support decisions made in relation to potential outcomes of the protest*

Your request has been considered in accordance with the Official Information Act 1982 (OIA), and I can now provide the following response.

As you may be aware, the Independent Police Conduct Authority (IPCA) has commenced an independent investigation and review (Review) of the policing of the occupation on and around Parliament grounds in Wellington during February and March 2022 (Protest).

Details of the scope of the Review are available on the IPCA's website¹ and you will note this scope includes Police management of intelligence as it related to the Protest, including consideration of the intelligence available to Police, the sufficiency of that intelligence, and how it was assessed and informed decision making prior to and throughout the course of the Protest.

Whilst this Review is underway, information relating to the issues under investigation and review is expected to be the subject of examination by the IPCA under its powers of investigation under the IPCA Act 1988. With this Review commenced, there is a strong public interest in allowing these matters to be considered in the round by the IPCA.

We consider that the information requested tends to go to the heart of the matters that are under investigation and review by the IPCA. Where such information is available, it is withheld in reliance upon section 9(2)(ba)(ii) of the OIA. It is in the public interest for the Review to be completed without earlier predetermination of the matters it is considering.

The IPCA anticipates the Review will be completed and reported on by 31 March 2023. Police recognises the importance of transparency in these matters and looks forward to the release of the IPCA's report, at which time more detailed information regarding the Police response to the Protest will likely be publicly available.

¹ <https://www.ipca.govt.nz/Site/publications-and-media/2022-media-releases/2022-mar-24-investigation-review-occupation-parliament.aspx>

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Nāku noa, nā



David Greig
Superintendent
New Zealand Police



IR-01-22-8964

10 June 2022

[REDACTED]

Dear [REDACTED]

Request for information

Thank you for your request of 28 March 2022, in which you requested the following:

- 1. How many of those arrested had their charges dropped, or were charged, and with what offence?*
- 2. Could you please clarify whether you bought (sic) people in from overseas to evict the protestors and if they were employed by the NZ Police, if not where did they come from?*
- 3. Why were not all of the police identifiable by their number, what are police regulations in these cases?*

Your request has been considered in accordance with the Official Information Act 1982 (OIA), and I can now provide the following response.

As you may be aware, the Independent Police Conduct Authority (IPCA) has commenced an independent investigation and review (Review) of the policing of the occupation on and around Parliament grounds in Wellington during February and March 2022 (Protest).

Details of the scope of the Review are available on the IPCA's website¹ and you will note this scope includes Police planning and preparation of its response to the Protest. This includes staff selection, training, operational guidance, equipment, and technology provided to officers who policed the Protest. It also includes Police command and control, decision-making processes, and operational execution (including tactics used and timeliness of tactics), as well as the powers used.

Whilst this Review is underway, information relating to the issues under investigation and review is expected to be the subject of examination by the IPCA under its powers of investigation under the IPCA Act 1988. With this Review commenced, there is a strong public interest in allowing these matters to be considered in the round by the IPCA.

We envisage relevant information will be released following the conclusion of the IPCA's Review.

¹ <https://www.ipca.govt.nz/Site/publications-and-media/2022-media-releases/2022-mar-24-investigation-review-occupation-parliament.aspx>

In the meantime, please see below the answers to your questions:

- 1. How many of those arrested had their charges dropped, or were charged, and with what offence?*

As you did not specify a date range in your request, I have assumed you are referring to arrests that occurred during whole period of the Protest.

There were 252 arrests and summons between 9 February and 4 March 2022 relating to the Protest. Of these, 18 people were arrested but charges were not filed; a total of 234 persons were prosecuted. The most common charges filed against individuals were Wilful Trespass (198 charges) and Obstruction (90 charges), with some charges for Disorderly Behaviour and Assaults Police.

Police continues to work through these charges in conjunction with the Courts, and some charges have been resolved. As this process is ongoing, Police is unable to confirm how many charges in total will be withdrawn across those 252 arrests.

Please note that Police is currently undertaking a criminal investigation into activity that occurred at the Protest and further charges may be filed.

- 2. Could you please clarify whether you bought (sic) people in from overseas to evict the protestors and if they were employed by the NZ Police, if not where did they come from?*

The operation to restore order and access to the area around Parliament was carried out by Police and involved NZ Police staff only, which included Policing Support Units and the Police Negotiation Team.

- 3. Why were not all of the police identifiable by their number, what are police regulations in these cases?*

The standard of dress for New Zealand Police is set out in Police Instructions. With regards to "badge numbers" the following guidance applied on 2 March 2022:

Constables wearing uniform must wear detachable epaulettes on the outer most upper body garment (wear only one set of epaulettes at a time). The epaulettes must carry the employee's appropriate position level insignia and for senior sergeants and below also include their registered numbers. The registered number must be placed adjacent to the outer edge of the epaulette.

Police acknowledges that during the course of an operation an officer's epaulettes may become obscured so the registered number would not visible. For example, Police's public order protective equipment includes shoulder protectors that may cover the epaulettes when worn.

The IPCA anticipates the Review will be completed and reported on by 31 March 2023. Police recognises the importance of transparency in these matters and looks forward to the release of the IPCA's report, at which time more detailed information regarding the Police response to the Protest is likely to be publicly available.

Please note that as part of its commitment to openness and transparency, Police proactively releases some information and documents that may be of interest to the public. An anonymised version of this response may be publicly released on the New Zealand Police website.

You have the right to ask the Ombudsman to review my decision if you are not satisfied with the response to your request. Information about how to make a complaint is available at:
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Nāku noa, nā

David Greig
Superintendent
New Zealand Police



IR-01-22-11877

3 June 2022

[REDACTED]

Dear [REDACTED]

Request for information

Thank you for your request of 27 April 2022, in which you requested the following:

All advice, risk assessments, intelligence reports and updates the Police produced or received regarding the protest at Parliament in February and March 2022. This is not a request for the name of officials or their personal information.

Please note I am using February and March 2022 to indicate the specific protest and occupation of Parliament I am referring to. If any such information I have requested regarding this protest/occupation was produced or received before February 2022 or after March 2022, I am requesting such information.

Your request has been considered in accordance with the Official Information Act 1982 (OIA), and I can now provide the following response.

As you may be aware, the Independent Police Conduct Authority (IPCA) has commenced an independent investigation and review (Review) of the policing of the occupation on and around Parliament grounds in Wellington during February and March 2022 (Protest).

Details of the scope of the Review are available on the IPCA's website¹ and you will note this scope includes Police management of intelligence as it related to the Protest, including consideration of the intelligence available to Police, the sufficiency of that intelligence, and how it was assessed and informed decision making prior to and throughout the course of the Protest.

Whilst this Review is underway, information relating to the issues under investigation and review is expected to be the subject of examination by the IPCA under its powers of investigation under the IPCA Act 1988. With this Review commenced, there is a strong public interest in allowing these matters to be considered in the round by the IPCA.

Your request for "all advice, risk assessments, intelligence reports and updates the Police produced or received" could not be met without substantial collation and research and is refused under section 18(f) of the OIA. We invite you to consider whether you wish to refine your request.

However, please note we consider the information you have requested tends to go to the heart of the matters that are under investigation and review by the IPCA. Where such information is available, it is likely to be withheld in reliance upon section 9(2)(ba)(ii) of the OIA. It is in the public interest for the Review to be completed without earlier predetermination of the matters it is considering.

¹ <https://www.ipca.govt.nz/Site/publications-and-media/2022-media-releases/2022-mar-24-investigation-review-occupation-parliament.aspx>

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The IPCA anticipates the Review will be completed and reported on by 31 March 2023. Police recognises the importance of transparency in these matters and looks forward to the release of the IPCA's report, at which time more detailed information regarding the Police response to the Protest is likely to be publicly available.

Please note that as part of its commitment to openness and transparency, Police proactively releases some information and documents that may be of interest to the public. An anonymised version of this response may be publicly released on the New Zealand Police website.

You have the right to ask the Ombudsman to review my decision if you are not satisfied with the response to your request. Information about how to make a complaint is available at:
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Nāku noa, nā



David Greig
Superintendent
New Zealand Police

IR-01-22-11909

9 June 2022

[REDACTED]

Dear [REDACTED]

Request for information

Thank you for your request of 24 April 2022, in which you requested the following:

1) All incoming and outgoing correspondence, messages and communications from the Police Commissioner and his office with the following people and their offices related to the protest and occupation of Parliament in February and March 2022:

*The Prime Minister and her Office
The Department of Prime Minister and Cabinet
The Deputy Prime Minister and his Office
The Speaker of the House of Representative and his Office
The Police Minister and her Office
The Minister Responsible for the New Zealand Security Intelligence Service and his office*

This request includes correspondence, messages and communications via electronic and digital mediums such as text messages and apps like Signal.

2) All incoming and outgoing correspondence, messages and communications from anyone in the Police Executive Leadership Team and their offices with the following people and their offices regarding the protest and occupation of Parliament in February and March 2022.

*The Prime Minister and her Office
The Department of Prime Minister and Cabinet
The Deputy Prime Minister and his Office
The Speaker of the House of Representative and his Office
The Police Minister and her Office
The Minister Responsible for the NZ Security Intelligence Service and his Office*

This request includes correspondence, messages and communications sent via electronic and digital mediums such as text messages and apps like Signal.

Your request has been considered in accordance with the Official Information Act 1982 (OIA), and I can now provide the following response.

As you may be aware, the Independent Police Conduct Authority (IPCA) has commenced an independent investigation and review (Review) of the policing of the occupation on and around Parliament grounds in Wellington during February and March 2022 (Protest).

Details of the scope of the Review are available on the IPCA's website¹ and you will note this scope includes Police engagement with local and national agencies where Police and those

¹ <https://www.ipca.govt.nz/Site/publications-and-media/2022-media-releases/2022-mar-24-investigation-review-occupation-parliament.aspx>

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agencies needed to work together to develop and execute operational plans. It also includes Police engagement at local and national government levels with those holding decision rights and responsibilities.

Whilst this Review is underway, information relating to the issues under investigation and review is expected to be the subject of examination by the IPCA under its powers of investigation under the IPCA Act 1988. With this Review commenced, there is a strong public interest in allowing these matters to be considered in the round by the IPCA.

We consider that the information you have requested tends to go to the heart of the matters that are under investigation and review by the IPCA. Where such information is available, it is withheld in reliance upon section 9(2)(ba)(ii) of the OIA. It is in the public interest for the Review to be completed without earlier predetermination of the matters it is considering.

The IPCA anticipates the Review will be completed and reported on by 31 March 2023. Police recognises the importance of transparency in these matters and looks forward to the release of the IPCA's report, at which time more detailed information regarding the Police response to the Protest is likely to be publicly available.

Please note that as part of its commitment to openness and transparency, Police proactively releases some information and documents that may be of interest to the public. An anonymised version of this response may be publicly released on the New Zealand Police website.

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Nāku noa, nā



David Greig
Superintendent
New Zealand Police

IR-01-22-13154

8 June 2022

[REDACTED]

Dear [REDACTED]

Request for information

Thank you for your request of 11 May 2022, in which you requested the following:

In March 2022 protesters gathered at Parliament. During the protest media reported that the police claimed that they had faeces thrown at them and were sprayed in the face by battery acid. The media later reported that the police were having samples of material analysed to find out what the material in each instance actually was.

Can you please provide the following information:

1. Copies of reports made by officers alleging that faeces had been thrown at them.
2. Copies of agendas and meetings conducted by the police regarding the alleged throwing of faeces at officers.
3. Copies of any requests made by police to have material analysed to assess if it was faeces.
4. Copies of any analysis provided to the police in response to this request.
5. Copies of reports made by officers alleging that they had been sprayed in the face by protestors had been thrown at them.
6. Copies of agendas and meetings conducted by the police regarding the alleged spraying of acid at officers.
7. Copies of any requests made by police to have material analysed to assess if it was battery acid.
8. Copies of any analysis provided to the police in response to this request.
9. Copies of any reports or material pertaining to any investigations regarding:
 - i) The throwing of faeces during the protest.
 - ii) The spraying of toxins or noxious fluids at officers during the protest.
 - iii) Any officers having suffered from exposure to pepper spray during the protest.

Your request has been considered in accordance with the Official Information Act 1982 (OIA), and I can now provide the following response.

As you may be aware, the Independent Police Conduct Authority (IPCA) has commenced an independent investigation and review (Review) of the policing of the occupation on and around Parliament grounds in Wellington during February and March 2022 (Protest).

Details of the scope of the Review are available on the IPCA's website¹ and you will note this scope includes Police command and control, decision-making processes, and operational execution (including tactics used and timeliness of tactics).

¹ <https://www.ipca.govt.nz/Site/publications-and-media/2022-media-releases/2022-mar-24-investigation-review-occupation-parliament.aspx>

Police National Headquarters

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Telephone: 04 474 9499. www.police.govt.nz

Whilst this Review is underway, information relating to the issues under investigation and review is expected to be the subject of examination by the IPCA under its powers of investigation under the IPCA Act 1988. With this Review commenced, there is a strong public interest in allowing these matters to be considered in the round by the IPCA.

We envisage relevant information will be released following the conclusion of the IPCA's Review.

In the meantime, responses to your questions are provided below:

- 1. Copies of reports made by officers alleging that faeces had been thrown at them.*
- 2. Copies of agendas and meetings conducted by the police regarding the alleged throwing of faeces at officers.*
- 3. Copies of any requests made by police to have material analysed to assess if it was faeces.*
- 4. Copies of any analysis provided to the police in response to this request.*

Police is currently undertaking a criminal investigation into this incident and other criminal activity that occurred at the Protest. Therefore, providing any information that relates to the investigation is refused under section 6(c) of the OIA, as the making available of the information is likely to prejudice the maintenance of the law including the prevention, investigation and detection of offences and the right to a fair trial.

- 5. Copies of reports made by officers alleging that they had been sprayed in the face by protestors had been thrown at them.*

On 22 February 2022, three officers involved in policing the Parliament protest activity on Molesworth Street were treated at the scene by paramedics and later in hospital after a liquid substance that caused a burning sensation was thrown at them.

Police have not identified any written reports made by the three officers alleging that they had been sprayed in the face by protestors. Therefore, this part of your request is refused pursuant to section 18(e) of the OIA as the information does not exist.

- 6. Copies of agendas and meetings conducted by the police regarding the alleged spraying of acid at officers.*

Police have not identified any formal agendas or minutes of meetings regarding this incident. Therefore, this part of your request is refused pursuant to section 18(e) of the OIA as the information does not exist.

However, on 23 February 2022 there was an informal debrief completed with the Policing Support Unit who worked that day, which included two of the officers who had a substance sprayed at them. The officers had this to say:

"[Officer 1] has been exposed to OC spray on many previous occasions but states that this felt different, not the same as OC spray. [Officer 2] is not familiar so offers no opinion."

I have removed the names of the officers pursuant to section 9(2)(a) of the OIA, to protect their privacy.

- 7. Copies of any requests made by police to have material analysed to assess if it was battery acid.*

The officers' Glo Vests were taken and sent for analysis. A copy of the request made to ESR is attached. Please note some information has been withheld from these reports in order to protect privacy, pursuant to section 9(2)(a) of the OIA.

- 8. Copies of any analysis provided to the police in response to this request.*

Two separate labs analysed material, with the preliminary results showing no positive results for any form of chemical substance that is hazardous to health. I have attached the final reports

Police received. Please note some information has been withheld from these reports in order to protect privacy, pursuant to section 9(2)(a) of the OIA.

At the scene, all members were heavily washed down with a water and baking soda solution which likely washed away any evidence or form of a chemical substance.

9. Copies of any reports or material pertaining to any investigations regarding:
- i) The throwing of faeces during the protest.

Please refer to my response to questions 1 through 4 above.

- ii) The spraying of toxins or noxious fluids at officers during the protest.

Please refer to my response to questions 5 and 6 above.

- iii) Any officers having suffered from exposure to pepper spray during the protest.

I can advise that two officers received medical treatment for exposure to Oleoresin Capsicum spray that occurred during the Protest. However, there are no current investigations into those incidents, therefore this part of your request is refused under section 18(e) of the OIA, as the document alleged to contain the information requested does not exist.

The IPCA anticipates the Review will be completed and reported on by 31 March 2023. Police recognises the importance of transparency in these matters and looks forward to the release of the IPCA's report, at which time more detailed information regarding the Police response to the Protest is likely to be publicly available.

Please note that as part of its commitment to openness and transparency, Police proactively releases some information and documents that may be of interest to the public. An anonymised version of this response may be publicly released on the New Zealand Police website.

You have the right to ask the Ombudsman to review my decision if you are not satisfied with the response to your request. Information about how to make a complaint is available at:
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Nāku noa, nā



David Greig
Superintendent
New Zealand Police

Exhibits For Laboratory Examination

| | |
|---|---------|
| For post mortem samples use form | POL 144 |
| For blood samples from suspected intoxicated motorists use form | POL 535 |
| For hospitalised motorists use form | POL 530 |

Sender (Rank & Name) Detective Constable Nicholas MEAD
Address 6 Moorefield Road, Johnsonville
File Manager (Rank & Name) Detective senior sergeant Richard ORR
Address 6 Moorefield Road, Johnsonville
Op/File Subject Name Protest Acid throwing
PERSON CHARGED NO
Email NMDS60@police.govt.nz
Phone s9(2)(a)
Email ROF950@police.govt.nz
Phone s9(2)(a)
Case No: 220222/6235
Main Offence Code 1471

Important Case Management Information:

In cases where a person has been **charged** it is imperative that the discovery and time frame provisions of the Criminal Procedures Act are adhered to. If the POL 143 form shows that a person has been charged the **ESR Case Manager** assigned this case will make contact with the **Police File Manager** to discuss time frames for analysis and other related issues. If a person is charged after this case has been submitted to ESR the **Police File Manager** will need to advise the **ESR Case Manager** of time frames as soon as is possible. It is also important to advise ESR of changes to Court dates, changed pleas, changes to Court attendance requirements and the like.

Note: Tick in box if any items are damp Indicate below any items that require fingerprinting (FP) or photographing (PH)

| Property No. | Forensic / Exhibit No. | Exhibit Description | FP/PH | Date collected | Time |
|--------------|------------------------|-----------------------------|-------|----------------|------|
| 15001 | 1LNQ9RN | High visibility police vest | N | 22/02/2022 | 0901 |
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Sender Detective Constable
Nicholas MEAD

(print name and rank)


(signature)

in person

Date 22/02/2022

QID NMDS60

Courier Detective Constable Nicholas MEAD

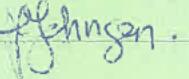
(print name and rank)


(signature)

Date 22/02/2022

QID NMDS60

Received (date and time): 22/02/22 1150

Received by (signature): 

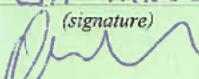
ESR No. _____

(please quote this number when calling ESR)

NOTE: If URGENT EXAMINATION is required in respect of any exhibit(s), please state below. Urgent surcharge fees (double routine cost) will apply if normal processing flows at ESR are significantly disrupted.

Urgent test.

As an Authorised Signatory I approve expenditure for the examination of samples submitted in this case:

Detective senior sergeant Richard ORR
(print name and rank) 
(signature)

QID ROF950

District to be charged PNHQ (NCIG)

Exhibit Packaging and Forwarding

- Package each exhibit or sample separately, seal with adhesive tape and sign seal
- Do not use staples and avoid plastic bags which can degrade exhibits
- Label each exhibit clearly with a unique exhibit reference number.
- If drugs or alcohol analyses are required from non-transport related live subjects (e.g. suspected drugged victims) use a relevant ESR Toxicology Kit.
- For illicit drug samples use a Pol. 120 Standard Drug Envelope
- Deliver exhibits personally or by traceable means (e.g. registered post or by courier with signature required) to the appropriate ESR location below:

The Analyst in Charge
ESR-Forensic
Mt Albert Science Centre
120 Mt Albert Road, Sandringham,
Private Bag 92021, AUCKLAND
Ph (09) 815 3670 Fax (09) 849 6046

The Analyst in Charge
ESR-Forensic
Kenepuru Science Centre
34 Kenepuru Drive,
PO Box 50 348, PORIRUA
Ph (04) 914 0638 Fax (04) 914 0640

The Analyst in Charge
ESR-Forensic
Christchurch Science Centre
27 Creyke Road,
Box 29-181, CHRISTCHURCH
Ph (03) 351 0033 Fax (03) 351 0046

FOR AFTER HOURS ADVICE call: 0800 FORENSIC or 0800 367 367

OFFENCE CIRCUMSTANCES AND CHARGE DETAILS

(Provide sufficient information on the circumstances of the offence and charges laid or anticipated, to enable the ESR Case Manager to properly focus the forensic investigation)

At about 7am this morning, police officers were policing the protest on Molesworth Street, Wellington. A unknown person has sprayed some form of liquid/unknwon substance onto the police staff. Three officers have reported feeling a burning sensation, mainly to their facial region. Following the burning sensation they have sought medical attention from paramedics. Paramedics have poured a baking soda solution on the police officers faces following the incident. This solution has likely transferred onto their clothing and vest.

An examination of the vest is requested to see if the unknown substance that has been sprayed can be identified.

PURPOSE OF THE EXAMINATION- (Describe why this case has been submitted to ESR)

To identify what the unknown substance that was sprayed on officers is.

Detective senior sergeant Richard ORR has consulted **s9(2)(a)** in relation to the matter. Please treat as super urgent.



Science for Communities

ESR Reference: 22ESR02046

Enquiries to: s9(2)(a)
[REDACTED]

17 March 2022

Johnsonville Police Station

Attention: Acting Detective Senior Sergeant Richard Orr, ROF950@police.govt.nz

Case name: Protest acid throwing
Client reference: 220222/6235

Please find enclosed my statement relating to the above case. A statement detailing some of the chemical analyses performed in this case has been forwarded previously. An additional statement detailing the remainder of that work will be forwarded in due course.

Please read the footnote to this letter in relation to the disposal of exhibits and samples.
The vest will be returned by courier at the completion of the case.

If you have any further queries please contact me on the above number.

s9(2)(a)
[REDACTED]

Case Manager
Wellington Forensic Service Centre

FOR SCENE ATTENDANCE OR ADVICE ANYTIME
Telephone 0800 FORENSIC 0800 367 367

ESR EXHIBIT RETENTION AND DISPOSAL PROCEDURES

- Any reference bodily samples submitted to ESR will be dealt with according to agreed Police/ESR policy and in compliance with the Criminal Investigations (Bodily Samples) Act 1995.
- Due to the nature of some submitted exhibits these may be consumed during analysis. Other submitted exhibits will be returned, except for illicit drugs and biological exhibits. (Biological exhibits may include medical examination kits, toxicology exhibits, and exhibits submitted for DNA profiling). Land Transport Act exhibits will be destroyed 1 year from receipt date. Toxicology exhibits will be destroyed or returned upon authorisation from the Coroner. Illicit drugs will be destroyed 3 months from report date unless an authorised request is received to return the exhibits.
- Sub exhibits derived from submitted exhibits will be retained, except for illicit drugs, reference bodily samples and toxicology exhibits. The length of time they are retained follows Public Records Act guidelines for the retention of case files.

INSTITUTE OF ENVIRONMENTAL SCIENCE AND RESEARCH

Kenepuru Science Centre: 34 Kenepuru Drive, Kenepuru, Porirua 5022 | PO Box 50348, Porirua 5240, New Zealand

T: +64 4 914 0700 F: +64 4 914 0770

22ESR02046||94224||1503202 s9(2)(a)

www.esr.cri.nz

Formal Written Statement

s9(2)(a) [REDACTED] states:

My full name is s9(2)(a) I am a forensic scientist employed by the Institute of Environmental Science and Research Limited, (ESR), situated at Kenepuru Drive, Porirua.

I hold a Master's degree in Chemistry from s9(2)(a) I am a Chartered Chemist of the Royal Society of Chemistry and a Chartered Scientist of the Science Council. I have worked as a forensic scientist since joining the Wellington Forensic Service Centre of ESR in s9(2)(a). My duties as a forensic scientist include the type carried out in this case.

ESR is a Crown Research Institute and its functions include the provision of independent forensic testing and advice. The ESR forensic laboratories are accredited to an international standard in the field of Forensic Science Testing.¹

Exhibit Receipt

I am the ESR Case Owner for this case. The ESR Custody Record to date for this case is available on request.

Laboratory records show that on 22 February 2022, a Police high-vis vest, item 15001, was received at the Wellington Forensic Service Centre of ESR for examination.

Examinations, Results and Opinions

The results and conclusions provided in this statement form my expert opinion, which is based on my scientific knowledge, experience and training. The results apply to the item as received and relate only to the item tested.

The vest appeared in reasonable condition. No burn damage or fabric discolouration consistent in appearance with chemical damage was observed on the vest.

The front of the vest was screened using pH strips, which can indicate the presence of an acid or a base. The pH of the top of the vest was measured at approximately 9 – 10. I understand that the

¹ ANAB, the ANSI National Accreditation Board provides accreditation services to the forensic laboratories of ESR to the international standard of ISO/IEC 17025. ANAB provides accreditation services to public and private sector organisations and is a subsidiary of the American National Standards Institute (ANSI).

affected Police officers were decontaminated with a solution of sodium bicarbonate. The measured pH is consistent with this decontamination procedure. The lower half of the vest was measured at approximately 7 – 8, which is neutral.

The reflective strip across the right side of the shoulder and chest was swabbed, and three samples of fabric cut out from across the upper front of the vest. These four samples and additional control samples were transferred to the Forensic Toxicology laboratory of ESR in Porirua for analysis.

The vest was then forwarded to the Physical Evidence laboratory of ESR in Auckland for further sampling and analysis.

I confirm the truth and accuracy of this statement. I make this statement with the knowledge that it is to be used in court proceedings. I am aware that it is an offence to make a statement that is known by me to be false or intended by me to mislead.

s9(2)(a)



17 March 2022



Science for Communities

ESR Reference: 22ESR02046

Enquiries to: s9(2)(a)

[REDACTED]

28 February 2022

Johnsonville Police Station

Attention: Detective Sergeant Richard Orr, ROF950@police.govt.nz

Case name: Protest acid throwing
Client reference: 220222/6235

Please find enclosed my statement relating to the above case.

Please read the footnote to this letter in relation to the disposal of exhibits and samples. Any remaining exhibits will be returned by courier at the completion of the case.

If you have any further queries, please contact me on the above number.

s9(2)(a)

[REDACTED]

Case Manager
Auckland Physical Evidence Laboratory

FOR SCENE ATTENDANCE OR ADVICE ANYTIME
Telephone 0800 FORENSIC 0800 367 367

ESR EXHIBIT RETENTION AND DISPOSAL PROCEDURES

- Any reference bodily samples submitted to ESR will be dealt with according to agreed Police/ESR policy and in compliance with the Criminal Investigations (Bodily Samples) Act 1995.
- Due to the nature of some submitted exhibits these may be consumed during analysis. Other submitted exhibits will be returned, except for illicit drugs and biological exhibits. (Biological exhibits may include medical examination kits, toxicology exhibits, and exhibits submitted for DNA profiling). Land Transport Act exhibits will be destroyed 1 year from receipt date. Toxicology exhibits will be destroyed or returned upon authorisation from the Coroner. Illicit drugs will be destroyed 3 months from report date unless an authorised request is received to return the exhibits.
- Sub exhibits derived from submitted exhibits will be retained, except for illicit drugs, reference bodily samples and toxicology exhibits. The length of time they are retained follows Public Records Act guidelines for the retention of case files.

INSTITUTE OF ENVIRONMENTAL SCIENCE AND RESEARCH

Mt Albert Science Centre: 120 Mt Albert Road, Sandringham, Auckland 1025 | Private Bag 92021, Auckland 1142, New Zealand

T: +64 9 815 3670 F: +64 9 849 6046

22ESR02046||93393||28022022||

s9(2)(a)

www.esr.cri.nz

Formal Written Statement

s9(2)(a) states:

My full name is s9(2)(a) I have the degree of Doctor of Philosophy in Chemistry from s9(2)(a)
s9(2)(a) I am employed at the Mount Albert Science Centre of ESR.

I have been employed by ESR to carry out the analysis of items of forensic interest since s9(2)(a). During this time, I have had specialist training and experience in determining the chemical composition of substances. I have passed practical and theoretical examinations on this subject and regularly undertake quality assurance trials in the interpretation and reporting of this type of forensic evidence.

ESR is a Crown Research Institute and its functions include the provision of independent forensic testing and advice. The ESR forensic laboratories are accredited to an international standard in the field of Forensic Science Testing.¹

The ESR Custody Record to date for this case is available on request from the ESR case owner s9(2)(a)

Examinations, Results and Opinions

The results and conclusions provided in this statement form my expert opinion, which is based on my scientific knowledge, experience and training. The results apply to the item as received and relate only to the item tested.

Laboratory records show that a Police high vis vest (item 1LNQ9RN) was received in relation to this case. This vest had previously been examined by the ESR laboratory in Wellington. I was informed that it was alleged that a liquid had been sprayed on to the person wearing this vest and paramedics subsequently applied a baking soda solution to the person.

I was asked to examine the vest to determine whether or not any foreign substance was present. I was assisted in this examination by my colleague s9(2)(a) who has carried out the analyses. I have interpreted the results produced.

¹ ANAB, the ANSI National Accreditation Board provides accreditation services to the forensic laboratories of ESR to the international standard of ISO/IEC 17025. ANAB provides accreditation services to public and private sector organisations and is a subsidiary of the American National Standards Institute (ANSI).

No areas of chemical damage were visible on the vest.

A piece of fabric from the back of the vest was removed. A solution of hydrochloric acid was added to the fabric to determine whether the acid would cause any damage to the fabric. A slight discolouration of the fabric was observed, however the fabric remained intact and no other damage was visible after three days.

Pieces of fabric from the right and left side of the neck were removed. A control sample from the lower back was also removed. These pieces of fabric were extracted with ethanol and these extracts were analysed by GC-MS (gas chromatography – mass spectrometry).

Homosalate, octocrylene and 2-ethylhexyl salicylate were detected on the pieces of fabric from the sides of the neck. These three compounds are all sunscreen ingredients. The identification of these compounds is tentative as the relevant standards were not available.

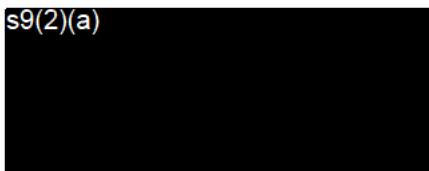
The pieces of fabric were also extracted with water. The pH of the water extracts was determined using universal indicator strips and was determined to be approximately 10, indicating these water extracts were basic. The extracts were also tested with chloride test strips. The extracts were evaporated to dryness and the residues were analysed by FTIR (Fourier transform infrared spectroscopy) to determine their chemical compositions.

The results from these tests showed that the water extracts from the pieces of fabric from the sides of the neck and the control sample from the back each contained a carbonate compound. Chloride was not detected. In my opinion, this carbonate compound could have come from the baking soda solution used by the paramedics.

In summary, the compounds detected on the vest are likely to have come from sunscreen and from the baking soda solution.

I confirm the truth and accuracy of this statement. I make this statement with the knowledge that it is to be used in court proceedings. I am aware that it is an offence to make a statement that is known by me to be false or intended by me to mislead.

s9(2)(a)



28 February 2022

IR-01-22-15054

9 June 2022

[REDACTED]

Dear [REDACTED]

Request for information

Thank you for your request of 21 May 2022, in which you requested the following:

- A) who was responsible for the police conduct at 6.15 am on the morning of 2 March including any officers responsible for supervising in Hill/Molesworth/ Aitken at
- B) please provide copies of all Perceived Cumulative Assessment, all TENR threat assessments relevant to police actions and decisions on 2 March, and all debriefs for police actions at and around Parliament on 2 March 2022
- C) copies of all 111 calls for medical assistance in and around Parliament on 2 March
- D) any instructions or requests from police to Wellington Free Ambulance relating to parliament occupation generally and/ or 2 March 2022
- E) all reports received by the police of injuries to members of the public on 2 March (including to protesters)
- F) any assessments undertaken of the risk to members of the public of the police used riot gear and force including any briefings/ warnings/ reminders about criminal liability where excessive force was used

Your request has been considered in accordance with the Official Information Act 1982 (OIA), and I can now provide the following response.

As you may be aware, the Independent Police Conduct Authority (IPCA) has commenced an independent investigation and review (Review) of the policing of the occupation on and around Parliament grounds in Wellington during February and March 2022 (Protest).

Details of the scope of the Review are available on the IPCA's website¹ and you will note this scope includes Police planning and preparation of its response to the Protest, Police command and control, decision-making processes, and operational execution (including tactics used and timeliness of tactics), and the powers used. It also includes Police engagement with local and national agencies where Police and those agencies needed to work together to develop and execute operational plans.

Whilst this Review is underway, information relating to the issues under investigation and review is expected to be the subject of examination by the IPCA under its powers of investigation under the IPCA Act 1988. With this Review commenced, there is a strong public interest in allowing these matters to be considered in the round by the IPCA.

¹ <https://www.ipca.govt.nz/Site/publications-and-media/2022-media-releases/2022-mar-24-investigation-review-occupation-parliament.aspx>

Police National Headquarters

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Telephone: 04 474 9499. www.police.govt.nz

We consider that the following information requested tends to go to the heart of the matters that are under investigation and review by the IPCA:

- A) who was responsible for the police conduct at 6.15 am on the morning of 2 March including any officers responsible for supervising in Hill/Molesworth/ Aitken at
- B) please provide copies of all Perceived Cumulative Assessment, all TENR threat assessments relevant to police actions and decisions on 2 March, and all debriefs for police actions at and around Parliament on 2 March 2022
- D) any instructions or requests from police to Wellington Free Ambulance relating to parliament occupation generally and/ or 2 March 2022
- F) any assessments undertaken of the risk to members of the public of the police used riot gear and force including any briefings/ warnings/ reminders about criminal liability where excessive force was used

Where such information is available, it is withheld in reliance upon section 9(2)(ba)(ii) of the OIA. It is in the public interest for the Review to be completed without earlier predetermination of the matters it is considering. We envisage relevant information will be released following the conclusion of the IPCA's Review.

I can however provide a response to following questions.

C) copies of all 111 calls for medical assistance in and around Parliament on 2 March

Police does not ordinarily receive 111 calls for medical assistance or reports of injuries unless it is in the context of reporting criminal activity; 111 calls for medical assistance would usually be transferred to an ambulance service, such as Wellington Free Ambulance. Police would need to review all 111 calls relating to reports of criminal activity in Wellington on 2 March to determine whether any such calls contain requests for medical assistance. Your request is therefore refused under section 18(f) of the OIA as it would require substantial collation and research.

Wellington Free Ambulance may hold the information, however please note that it is not subject to the OIA.

E) all reports received by the police of injuries to members of the public on 2 March (including to protesters)

To locate all reports Police may have received relating to injuries to members of the public at the Protest on 2 March it would be necessary to review all the records Police hold of events on that day including the notebook entries of individual officers, and interview each officer present. This part of your request is refused under section 18(f) of the OIA as the information cannot be made available without substantial collation or research.

The IPCA anticipates the Review will be completed and reported on by 31 March 2023. Police recognises the importance of transparency in these matters and looks forward to the release of the IPCA's report, at which time more detailed information regarding the Police response to the Protest is likely to be publicly available.

Please note that as part of its commitment to openness and transparency, Police proactively releases some information and documents that may be of interest to the public. An anonymised version of this response may be publicly released on the New Zealand Police website.

You have the right to ask the Ombudsman to review my decision if you are not satisfied with the response to your request. Information about how to make a complaint is available at:
www.ombudsman.parliament.nz.

Nāku noa, nā



David Greig
Superintendent
New Zealand Police

IR-01-22-9643

17 June 2022

[REDACTED]

Tēnā koe [REDACTED]

Request for information

Thank you for your request of 5 April 2022, in which you requested the following:

all correspondence between police and the New Zealand Police Association relating to the anti-mandate protests between the February 1 and March 31 2022.

Your request has been considered in accordance with the Official Information Act 1982 (OIA), and I can now provide the following response.

As you may be aware, the Independent Police Conduct Authority (IPCA) has commenced an independent investigation and review (Review) of the policing of the occupation on and around Parliament grounds in Wellington during February and March 2022 (Protest).

Details of the scope of the Review are available on the IPCA's website¹ and you will note this scope includes Police planning and preparation of its response to the Protest. This includes staff selection, training, operational guidance, equipment, and technology provided to officers who policed the Protest. It also includes Police engagement with iwi, protesters, local businesses, the Courts and other stakeholders.

Whilst this Review is underway, information relating to the issues under investigation and review is expected to be the subject of examination by the IPCA under its powers of investigation under the IPCA Act 1988. With this Review commenced, there is a strong public interest in allowing these matters to be considered in the round by the IPCA.

We have identified some email correspondence within the scope of your request. Pursuant to section 16(1)(e) of the OIA a summary is provided below of the topics covered:

- deployment, rostering and associated impacts on time-sheeting and call-back allowance entitlement
- allowances, particularly relating to meals
- the expense claim process
- measures to mitigate COVID related risks
- employee/employer expectations.

The correspondence itself is withheld under section 9(2)(g)(i) of the OIA, to maintain the effective conduct of public affairs through the free and frank expressions of opinions between the Police and the Police Association in their capacities as employer and employee union.

¹ <https://www.ipca.govt.nz/Site/publications-and-media/2022-media-releases/2022-mar-24-investigation-review-occupation-parliament.aspx>

The IPCA anticipates the Review will be completed and reported on by 31 March 2023. Police recognises the importance of transparency in these matters and looks forward to the release of the IPCA's report, at which time more detailed information regarding the Police response to the Protest is likely to be publicly available.

Please note that as part of its commitment to openness and transparency, Police proactively releases some information and documents that may be of interest to the public. An anonymised version of this response may be publicly released on the New Zealand Police website.

You have the right to ask the Ombudsman to review my decision if you are not satisfied with the response to your request. Information about how to make a complaint is available at: www.ombudsman.parliament.nz.

Nāku noa, nā



David Greig
Superintendent
New Zealand Police

IR-01-22-9777

17 June 2022

[REDACTED]

Tēnā koe [REDACTED]

Request for information

Thank you for your request of 5 April 2022, in which you requested the following:

- *The number of reports of sexual assault or harassment that occurred at the parliament protest earlier this year*
- *The number of reports of assault that occurred at the parliament protest earlier this year*
- *The number of reports of illegal drug use from the protest*
- *The number of Molotov cocktails discovered on parliament grounds during and after this period*
- *The number of officers that worked undercover at the protest*
- *The number of reports of children being abused or mistreated at the protest.*

As you may be aware, the Independent Police Conduct Authority (IPCA) has commenced an independent investigation and review (Review) of the policing of the occupation on and around Parliament grounds in Wellington during February and March 2022 (Protest).

Details of the scope of the Review are available on the IPCA's website.¹ Whilst this Review is underway, information relating to the issues under investigation and review is expected to be the subject of examination by the IPCA under its powers of investigation under the IPCA Act 1988. With this Review commenced, there is a strong public interest in allowing these matters to be considered in the round by the IPCA.

The IPCA anticipates the Review will be completed and reported on by 31 March 2023. Police recognises the importance of transparency in these matters and looks forward to the release of the IPCA's report, at which time more detailed information regarding the Police response to the Protest is likely to be publicly available.

Your request has been considered in accordance with the Official Information Act 1982 (OIA), and my response to each part of your request can be found below.

When considering these responses it is important to note that reports of potential offending by members of the public or by police are recorded in the National Intelligence Application (NIA). The details recorded include the type, location, date and time.

I can provide you with the number of reported offences in each category for the period of the Protest where the incident was recorded as occurring on the grounds of Parliament. While there may have been offences that occurred outside Parliament Grounds that related to the Protest it

¹ <https://www.ipca.govt.nz/Site/publications-and-media/2022-media-releases/2022-mar-24-investigation-review-occupation-parliament.aspx>

Police National Headquarters

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Telephone: 04 474 9499. www.police.govt.nz

would require a manual review of individual records to identify them. Those details are therefore refused under section 18(f) of the OIA, as providing the information would require substantial collation or research.

Please note that officially reported offences do not capture the full picture of the activity that occurred at Parliament Grounds in the period 6 February to 2 March 2022. Some offences may not have been officially reported to Police.

When providing updates to the media and public during the protest Police provided an insight into what they were seeing and offered prevention advice in an effort to keep those attending the Protest and the wider community safe.

- *The number of reports of sexual assault or harassment that occurred at the parliament protest earlier this year*

Police received no reports of offending relating to sexual assault or harassment that were recorded as occurring on Parliament grounds in the period 6 February to 2 March 2022.

- *The number of reports of assault that occurred at the parliament protest earlier this year*

Police received four reports of assault offences that were recorded as occurring on Parliament grounds in the period 6 February to 2 March 2022.

- *The number of reports of illegal drug use from the protest*

Police received no reports of offending relating to illegal drug use that were recorded as occurring on Parliament grounds in the period 6 February to 2 March 2022.

- *The number of reports of children being abused or mistreated at the protest.*

Police received no reports of offending relating to children being abused or mistreated that were recorded as occurring on Parliament grounds in the period 6 February to 2 March 2022.

- *The number of Molotov cocktails discovered on parliament grounds during and after this period*

Police is currently undertaking a criminal investigation into activity that occurred at the Protest. All information Police holds in relation to the presence of Molotov cocktails at the Protest is withheld under section 6(c) of the OIA, as the making available of the information is likely to prejudice the maintenance of the law including the prevention, investigation and detection of offences and the right to a fair trial.

- *The number of officers that worked undercover at the protest*

No undercover officers were deployed at the protest. A number of Police constabulary staff work in plain clothes however, for example, staff who work in the Criminal Investigation Branch, Field Intelligence Officers and some family harm staff. Some plain clothes officers were deployed to the protest, however the exact number was not recorded.

Please note that as part of its commitment to openness and transparency, Police proactively releases some information and documents that may be of interest to the public. An anonymised version of this response may be publicly released on the New Zealand Police website.

IR-01-22-13675

17 June 2022

[REDACTED]

Tēnā koe [REDACTED]

Request for information

Thank you for your request of 13 May 2022, in which you requested the following:

I would like to make a request for information relating to the Police-led interagency group that coordinated the cross-government response to the protests that took place at Parliament earlier this year.

I would like to request:

ONE: *Copies of the agenda and minutes of all meetings of this group, and the group's terms of reference*

TWO: *Copies of all briefings to the Minister of Police on the topic of the establishment of this group*

THREE: *Copies of all daily intelligence reports on the topic of the protest, produced by Police and distributed to other agencies, for the dates 5 February to 3 March 2022.*

Thank you for the clarification provided in your email of 2 June 2022 that you were not referring to the Officials' Committee for Domestic and External Security Coordination (ODESC) which met on 17 February 2022, but other cross-agency meetings that were led by Police. I have therefore interpreted your request to relate to the National Strategic Response Plan Workshop, which was chaired by Police and held its first meeting on 22 February 2022.

Your request has been considered in accordance with the Official Information Act 1982 (OIA), and I can now provide the following response.

As you may be aware, the Independent Police Conduct Authority (IPCA) has commenced an independent investigation and review (Review) of the policing of the occupation on and around Parliament grounds in Wellington during February and March 2022 (Protest).

Details of the scope of the Review are available on the IPCA's website¹ and you will note this scope includes Police engagement with local and national agencies where Police and those agencies needed to work together to develop and execute operational plans, and Police management of intelligence as it related to the Protest.

Whilst this Review is underway, information relating to the issues under investigation and review is expected to be the subject of examination by the IPCA under its powers of investigation under

¹ <https://www.ipca.govt.nz/Site/publications-and-media/2022-media-releases/2022-mar-24-investigation-review-occupation-parliament.aspx>

the IPCA Act 1988. With this Review commenced, there is a strong public interest in allowing these matters to be considered in the round by the IPCA.

We consider that the information you have requested tends to go to the heart of the matters that are under investigation and review by the IPCA. Where such information is available, it is withheld in reliance upon section 9(2)(ba)(ii) of the OIA. It is in the public interest for the Review to be completed without earlier predetermination of the matters it is considering.

However, I can advise that no written briefings were provided to the Minister of Police by Police on the topic of establishing the National Strategic Response Plan Workshop. This part of your request is therefore refused under section 18(e) of the OIA, as the information does not exist.

I would also like to clarify that although Police chaired and coordinated the National Strategic Response Plan Workshop, Police's role and the purpose of the meetings was not to coordinate a cross-government response to the Protest. The purpose of the meetings was to share information and ideas, and to consider emerging risks and mitigation treatments.

The operation to restore order and access to the area around Parliament was carried out by Police and involved NZ Police staff only, which included Policing Support Units and the Police Negotiation Team.

Staff from other organisations were often in the vicinity; for example, units from Wellington Free Ambulance and Fire and Emergency New Zealand. However, these units were not deployed to assist the Police or as part of a cross-government response, rather they were deployed by their own organisations to ensure the safety of all those present, including the protestors.

The IPCA anticipates the Review will be completed and reported on by 31 March 2023. Police recognises the importance of transparency in these matters and looks forward to the release of the IPCA's report, at which time more detailed information regarding the Police response to the Protest is likely to be publicly available.

Please note that as part of its commitment to openness and transparency, Police proactively releases some information and documents that may be of interest to the public. An anonymised version of this response may be publicly released on the New Zealand Police website.

You have the right to ask the Ombudsman to review my decision if you are not satisfied with the response to your request. Information about how to make a complaint is available at: www.ombudsman.parliament.nz.

Nāku noa, nā



David Greig
Superintendent
New Zealand Police



IR-01-22-15649

17 June 2022

[REDACTED]

Tēnā koe [REDACTED]

Request for information

Thank you for your Official Information Act 1982 (OIA) request of 30 May 2022, in which you asked for the following:

- ONE: “Social Discord and Its Long-Term Implications” (6 December 2021)
- TWO: “Strategic Assessment – Implications of COVID-19 for Police over summer 2021-2022” (2 December 2021)
- THREE: “Scanning Report Protest Activity” (2 December 2021)

As you may be aware, the Independent Police Conduct Authority (IPCA) has commenced an independent investigation and review (Review) of the policing of the occupation on and around Parliament grounds in Wellington during February and March 2022 (Protest).

Details of the scope of the Review are available on the IPCA’s website¹ and you will note this scope includes Police management of intelligence available to Police, the sufficiency of that intelligence, and how it was assessed and informed decision making prior to and throughout the course of the Protest.

While this Review is underway, information relating to the issues under investigation and review is expected to be the subject of examination by the IPCA under its powers of investigation under the IPCA Act 1988. With this Review commenced, there is a strong public interest in allowing these matters to be considered in the round by the IPCA.

It is in the public interest for the Review to be completed without earlier predetermination of the matters it is considering. The three documents you have requested have been provided to the IPCA as part of the Review. This information is therefore withheld under section 9(2)(ba)(ii) of the OIA, to protect information which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely otherwise to damage the public interest.

¹ <https://www.ipca.govt.nz/Site/publications-and-media/2022-media-releases/2022-mar-24-investigation-review-occupation-parliament.aspx>

Police National Headquarters

180 Molesworth Street. PO Box 3017, Wellington 6140, New Zealand.
Telephone: 04 474 9499. Fax: 04 498 7400. www.police.govt.nz

We envisage relevant information will be released following the conclusion of the IPCA's Review. The IPCA anticipates the Review will be completed and reported on by 31 March 2023. Police recognises the importance of transparency in these matters and looks forward to the release of the IPCA's report, at which time more detailed information regarding the Police response to the Protest will be publicly available.

Please note that as part of its commitment to openness and transparency, Police proactively releases some information and documents that may be of interest to the public. An anonymised version of this response may be publicly released on the New Zealand Police website.

You have the right to ask the Ombudsman to review my decision if you are not satisfied with the response to your request. Information about how to make a complaint is available at: www.ombudsman.parliament.nz.

Nāku noa, nā



David Greig
Superintendent
New Zealand Police

IR-01-22-16084

17 June 2022

[REDACTED]

Tēnā koe [REDACTED]

Request for information

Thank you for your request, transferred to Police on 1 June 2022, in which you requested information relating to the protest activity at Parliament. The transferred part of your request is as follows:

Dear Prime Minister

I refer to your proactively released diary for February 2022 which says you met with the Minister of Police and the Commissioner of Police on multiple occasions:

<https://www.beehive.govt.nz/sites/default/files/2022-03/Rt%20Hon%20Jacinda%20Ardern%27s%20February%202022%20Ministerial%20Diary.pdf>

Under section 12 of the Official Information Act 1982, I request the following information:

- *All written advice, reports or updates produced or received by you or your office in relation to these meetings.*
- *While this request is based on meetings listed in your February diary, I request all such information listed above for any such meetings that occurred between the Commissioner of Police, the Minister of Police and yourself (as the primary attendees) in March 2022 too.*

Your request has been considered in accordance with the Official Information Act 1982 (OIA), and I can now provide the following response.

As you may be aware, the Independent Police Conduct Authority (IPCA) has commenced an independent investigation and review (Review) of the policing of the occupation on and around Parliament grounds in Wellington during February and March 2022 (Protest).

Details of the scope of the Review are available on the IPCA's website¹ and you will note this scope includes Police engagement at local and national government levels with those holding decision rights and responsibilities, including public and private sector actors whose actions materially influenced or impacted on Police decision making.

Whilst this Review is underway, information relating to the issues under investigation and review is expected to be the subject of examination by the IPCA under its powers of investigation under

¹ <https://www.ipca.govt.nz/Site/publications-and-media/2022-media-releases/2022-mar-24-investigation-review-occupation-parliament.aspx>

the IPCA Act 1988. With this Review commenced, there is a strong public interest in allowing these matters to be considered in the round by the IPCA.

We consider that the information requested tends to go to the heart of the matters that are under investigation and review by the IPCA.

Where such information is available, it is withheld in reliance upon section 9(2)(ba)(ii) of the OIA. It is in the public interest for the Review to be completed without earlier predetermination of the matters it is considering.

The IPCA anticipates the Review will be completed and reported on by 31 March 2023. Police recognises the importance of transparency in these matters and looks forward to the release of the IPCA's report, at which time more detailed information regarding the Police response to the Protest is likely to be publicly available.

Please note that as part of its commitment to openness and transparency, Police proactively releases some information and documents that may be of interest to the public. An anonymised version of this response may be publicly released on the New Zealand Police website.

You have the right to ask the Ombudsman to review my decision if you are not satisfied with the response to your request. Information about how to make a complaint is available at:
www.ombudsman.parliament.nz.

Nāku noa, nā



David Greig
Superintendent
New Zealand Police

IR-01-22-16090

17 June 2022

[REDACTED]

Tēnā koe [REDACTED]

Request for information

Thank you for your request, transferred to Police on 2 June 2022, in which you requested information relating to the protest activity at Parliament. The transferred part of your request is as follows:

Any correspondence between Police National Headquarters and the Prime Minister between February 8th 2022 and March 4th 2022. Correspondence includes but is not limited to: emails, texts, memos, online messages, briefings to Ministers, minutes, petitions, letters and notes.

Your request has been considered in accordance with the Official Information Act 1982 (OIA), and I can now provide the following response.

As you may be aware, the Independent Police Conduct Authority (IPCA) has commenced an independent investigation and review (Review) of the policing of the occupation on and around Parliament grounds in Wellington during February and March 2022 (Protest).

Details of the scope of the Review are available on the IPCA's website¹ and you will note this scope includes Police engagement at local and national government levels with those holding decision rights and responsibilities, including public and private sector actors whose actions materially influenced or impacted on Police decision making.

Whilst this Review is underway, information relating to the issues under investigation and review is expected to be the subject of examination by the IPCA under its powers of investigation under the IPCA Act 1988. With this Review commenced, there is a strong public interest in allowing these matters to be considered in the round by the IPCA.

We consider that the information requested tends to go to the heart of the matters that are under investigation and review by the IPCA.

Where such information is available, it is withheld in reliance upon section 9(2)(ba)(ii) of the OIA. It is in the public interest for the Review to be completed without earlier predetermination of the matters it is considering.

The IPCA anticipates the Review will be completed and reported on by 31 March 2023. Police recognises the importance of transparency in these matters and looks forward to the release of the IPCA's report, at which time more detailed information regarding the Police response to the Protest is likely to be publicly available.

¹ <https://www.ipca.govt.nz/Site/publications-and-media/2022-media-releases/2022-mar-24-investigation-review-occupation-parliament.aspx>

Police National Headquarters

180 Molesworth Street, PO Box 3017, Wellington 6140, New Zealand
Telephone: 04 474 9499. www.police.govt.nz

Please note that as part of its commitment to openness and transparency, Police proactively releases some information and documents that may be of interest to the public. An anonymised version of this response may be publicly released on the New Zealand Police website.

You have the right to ask the Ombudsman to review my decision if you are not satisfied with the response to your request. Information about how to make a complaint is available at: www.ombudsman.parliament.nz.

Nāku noa, nā



David Greig
Superintendent
New Zealand Police

IR-01-22-16098

17 June 2022

[REDACTED]

Tēnā koe [REDACTED]

Request for information

Thank you for your request, transferred to Police on 2 June 2022, in which you requested information relating to the protest activity at Parliament. The transferred parts of your request are as follows:

Any documents, including but not exclusive to briefings, papers, aide memories, situation reports and memos, received by the prime minister regarding the protest/occupation at Parliament, received between January 24 and February 22, 2022

Any correspondence between PMO staff and police, including police executive members, between February 8 and February 22, 2022

Your request has been considered in accordance with the Official Information Act 1982 (OIA), and I can now provide the following response.

As you may be aware, the Independent Police Conduct Authority (IPCA) has commenced an independent investigation and review (Review) of the policing of the occupation on and around Parliament grounds in Wellington during February and March 2022 (Protest).

Details of the scope of the Review are available on the IPCA's website¹ and you will note this scope includes Police engagement at local and national government levels with those holding decision rights and responsibilities, including public and private sector actors whose actions materially influenced or impacted on Police decision making.

Whilst this Review is underway, information relating to the issues under investigation and review is expected to be the subject of examination by the IPCA under its powers of investigation under the IPCA Act 1988. With this Review commenced, there is a strong public interest in allowing these matters to be considered in the round by the IPCA.

We consider that the information requested tends to go to the heart of the matters that are under investigation and review by the IPCA.

Where such information is available, it is withheld in reliance upon section 9(2)(ba)(ii) of the OIA. It is in the public interest for the Review to be completed without earlier predetermination of the matters it is considering.

The IPCA anticipates the Review will be completed and reported on by 31 March 2023. Police recognises the importance of transparency in these matters and looks forward to the release of

¹ <https://www.ipca.govt.nz/Site/publications-and-media/2022-media-releases/2022-mar-24-investigation-review-occupation-parliament.aspx>

the IPCA's report, at which time more detailed information regarding the Police response to the Protest is likely to be publicly available.

Please note that as part of its commitment to openness and transparency, Police proactively releases some information and documents that may be of interest to the public. An anonymised version of this response may be publicly released on the New Zealand Police website.

You have the right to ask the Ombudsman to review my decision if you are not satisfied with the response to your request. Information about how to make a complaint is available at:
www.ombudsman.parliament.nz.

Nāku noa, nā



David Greig
Superintendent
New Zealand Police

IR-01-22-16331

17 June 2022

[REDACTED]

Tēnā koe [REDACTED]

Request for information

Thank you for your request of 3 June 2022, in which you requested the following:

Could you please tell me of the arrests made during the 23 day convoy, how many people have been prosecuted? And how many charges have been dropped?

Please could we have a breakdown that shows:

Total number of arrests?

Number of people prosecuted so far?

Number of charges dropped? And in relation to how many people?

Your request has been considered in accordance with the Official Information Act 1982 (OIA), and I can now provide the following response.

As you may be aware, the Independent Police Conduct Authority (IPCA) has commenced an independent investigation and review (Review) of the policing of the occupation on and around Parliament grounds in Wellington during February and March 2022 (Protest).

Details of the scope of the Review are available on the IPCA's website¹ and you will note this scope includes Police command and control, decision-making processes, and operational execution (including tactics used and timeliness of tactics). It also includes the powers used to keep the peace, maintain public safety, enforce the law, and provide community support and reassurance, and the tactical exercise of those powers.

Whilst this Review is underway, information relating to the issues under investigation and review is expected to be the subject of examination by the IPCA under its powers of investigation under the IPCA Act 1988. With this Review commenced, there is a strong public interest in allowing these matters to be considered in the round by the IPCA.

We envisage relevant information will be released following the conclusion of the IPCA's Review.

In the meantime, we can confirm that there were 252 persons arrested in total between 9 February and 4 March. Of these, 18 people were arrested but not charged. A total of 234 persons were prosecuted.

The most common charges filed against individuals were Wilful Trespass (198 charges) and Obstruction (90 charges), with some charges for Disorderly Behaviour and Assaults Police. Police continues to work through these charges in conjunction with the Courts, and some charges have been resolved.

¹ <https://www.ipca.govt.nz/Site/publications-and-media/2022-media-releases/2022-mar-24-investigation-review-occupation-parliament.aspx>

As of 1 June, Police records showed that approximately 65 persons have had one or more charges withdrawn by Police.

The Police investigation into criminal activity is still underway and additional arrests may be made. The focus of that investigation is on criminal activity in relation to property damage and violence against others.

The IPCA anticipates the Review will be completed and reported on by 31 March 2023. Police recognises the importance of transparency in these matters and looks forward to the release of the IPCA's report, at which time more detailed information regarding the Police response to the Protest is likely to be publicly available.

Please note that as part of its commitment to openness and transparency, Police proactively releases some information and documents that may be of interest to the public. An anonymised version of this response may be publicly released on the New Zealand Police website.

Nāku noa, nā



David Greig
Superintendent
New Zealand Police

IR-01-22-16507

21 June 2022

[REDACTED]

Tēnā koe [REDACTED]

Request for information

Thank you for your request of 8 June 2022, in which you requested the following:

*Already Public Knowledge
courtesy of Stuff online videos etc - I require details relating to the arrest of Mr Phil Peters at the Mandate protests at parliament on either 23 or 24/02/2022. He has publicly announced that he was arrested by police and charged with 'obstruction' following an incident during police operations at the protests and what he released appears to be verified by a full, and partial videos taken by Stuff at the time. The information I require is the name and rank of the police member who arrested Mr Peters on that charge of 'obstruction'. Also if it is not the same police member, the name and rank of the officer who interacted with Phil Peters at the time and was accused in the media of eye-gouging him.*

Your request has been considered in accordance with the Official Information Act 1982 (OIA), and I can now provide the following response.

Your request for names and ranks of officers involved in an individual's arrest is refused pursuant to section 9(2)(g)(ii), to maintain the effective conduct of public affairs through the protection of such Ministers, members of organisations, officers, and employees from improper pressure or harassment.

Police considers the interests requiring protection by withholding the information are not outweighed by any public interest in release of the information.

Police is currently reviewing all complaints received regarding the behaviour of police officers during the protest at Parliament, in conjunction with the IPCA.

In addition, as you may be aware, the Independent Police Conduct Authority (IPCA) has commenced an independent investigation and review (Review) of the policing of the occupation on and around Parliament grounds in Wellington during February and March 2022 (Protest).

Details of the scope of the Review are available on the IPCA's website¹ and you will note this scope includes the powers used to keep the peace, maintain public safety, enforce the law, and provide community support and reassurance, and the tactical exercise of those powers. It also includes how Police balanced the rights of protesters with the rights of other people throughout the course of the Protest.

¹ <https://www.ipca.govt.nz/Site/publications-and-media/2022-media-releases/2022-mar-24-investigation-review-occupation-parliament.aspx>

Whilst this Review is underway, information relating to the issues under investigation and review is expected to be the subject of examination by the IPCA under its powers of investigation under the IPCA Act 1988. With this Review commenced, there is a strong public interest in allowing these matters to be considered in the round by the IPCA.

The IPCA anticipates the Review will be completed and reported on by 31 March 2023. Police recognises the importance of transparency in these matters and looks forward to the release of the IPCA's report, at which time more detailed information regarding the Police response to the Protest is likely to be publicly available.

Please note that as part of its commitment to openness and transparency, Police proactively releases some information and documents that may be of interest to the public. An anonymised version of this response may be publicly released on the New Zealand Police website.

You have the right to ask the Ombudsman to review my decision if you are not satisfied with the response to your request. Information about how to make a complaint is available at: www.ombudsman.parliament.nz.

Nāku noa, nā



David Greig
Superintendent
New Zealand Police



IR-01-22-16840

21 June 2022

[REDACTED]

Tēnā koe [REDACTED]

Request for information

Thank you for your request of 5 June 2022, in which you requested the following:

I am assisting Alan Simmons who was seriously assaulted by the police at around 6.15 am on 2 March 2022 on the corner of Hill and Molesworth Street resulting in him needed an urgent full hip replacement operation.

Please could I have a copy of all video and photos taken by or otherwise obtained by the police from 6am to 7am that morning in Hill Street and/ or on the Hill At corner of Molesworth Street and/ or outside the Court of Appeal building.

Please could I also have a copy of any police policies dealing with trespass or alleged trespass in public places

Your request has been considered in accordance with the Official Information Act 1982 (OIA), and I can now provide the following response.

As previously advised, the Independent Police Conduct Authority (IPCA) has commenced an independent investigation and review (Review) of the policing of the occupation on and around Parliament grounds in Wellington during February and March 2022 (Protest).

Details of the scope of the Review are available on the IPCA's website¹ and you will note this scope includes Police command and control, decision-making processes, and operational execution (including tactics used and timeliness of tactics). It also includes the powers used to keep the peace, maintain public safety, enforce the law, and provide community support and reassurance, and the tactical exercise of those powers.

Whilst this Review is underway, information relating to the issues under investigation and review is expected to be the subject of examination by the IPCA under its powers of investigation under the IPCA Act 1988. With this Review commenced, there is a strong public interest in allowing these matters to be considered in the round by the IPCA.

We note you have previously sent Police a complaint regarding the matter you have raised above. Police is reviewing all complaints received regarding the behaviour of Police officers during the Protest, in conjunction with the IPCA.

In the meantime, we can provide the following response.

¹ <https://www.ipca.govt.nz/Site/publications-and-media/2022-media-releases/2022-mar-24-investigation-review-occupation-parliament.aspx>

Police National Headquarters

180 Molesworth Street, PO Box 3017, Wellington 6140, New Zealand
Telephone: 04 474 9499. www.police.govt.nz

Please could I have a copy of all video and photos taken by or otherwise obtained by the police from 6am to 7am that morning in Hill Street and/ or on the Hill At corner of Molesworth Street and/ or outside the Court of Appeal building.

The volume of footage Police has available for 2 March 2022 is significant and in many cases is not timestamped. Identifying all photographs and video footage taken or otherwise obtained by Police from 6am to 7am on the morning of 2 March 2022 in the regions indicated would require manually reviewing the material. This part of your request is therefore refused under section 18(f) of the OIA as the information cannot be made available without substantial collation or research.

We invite you to consider whether you wish to refine your request. However, we can advise that the IPCA has requested access to all Police digital footage including the footage that Police has obtained from other sources, such as the media. Accordingly, any video footage or photographs that might be identified would tend to go to the heart of the matters that are under investigation and review by the IPCA, and would likely be withheld in reliance upon section 9(2)(ba)(ii) of the OIA. It is in the public interest for the Review to be completed without earlier predetermination of the matters it is considering.

Please also note that Police is currently undertaking a criminal investigation into activity that occurred at the Wellington protest on 2 March 2022. The footage Police holds is under review as part of that active investigation. Therefore, any video footage or photographs that may be identified through a refined request would likely be withheld under s6(c) of the OIA if it related to an ongoing investigation or subsequent court proceeding, as the making available of the information would be likely to prejudice the maintenance of the law including the prevention, investigation and detection of offences and the right to a fair trial.

Please could I also have a copy of any police policies dealing with trespass or alleged trespass in public places

Please find attached a copy of the Police Instructions chapter regarding Trespass.

The IPCA anticipates the Review will be completed and reported on by 31 March 2023. Police recognises the importance of transparency in these matters and looks forward to the release of the IPCA's report, at which time more detailed information regarding the Police response to the Protest is likely to be publicly available.

Please note that as part of its commitment to openness and transparency, Police proactively releases some information and documents that may be of interest to the public. An anonymised version of this response may be publicly released on the New Zealand Police website.

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Nāku noa, nā



David Greig
Superintendent
New Zealand Police

Trespass

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Policy statement and principles

What

The issuing and enforcement of trespass notices comes under the [Trespass Act 1980](#) and applies to commercial premises that are open to the public as well as private premises.

Police should approach the issuing of trespass notices with care. The key elements of trespass can be complicated and revolve around things such as who actually is the lawful owner/occupier does the person wanting another trespass from a property have the authority to trespass a person does the person to be trespassed have an implied licence to be at the location and has this been withdrawn? Potential trespass matters involving leases public meetings and Māori land can further complicate matters.

Police should only become involved in issuing trespass notices to assist in circumstances such as, the occupiers fear the person(s) on whom they wish to serve notice, or where there are large crowds, or where the owners/occupiers are unavailable, or a criminal offence has also been identified and the trespass notice becomes part of the incident resolution.

As there are also professional ‘document server’ or ‘process server’ services available to serve trespass notices on behalf of members of the public, Police involvement is more aligned with incidences of non-compliance and/or enforcement.

Staff, victim and public safety is the primary concern when attending the scene of any trespass incident.

Why

In the interest of public satisfaction and safety victim focus and offender apprehension Police have a responsibility to prevent investigate reduce and resolve crime(s)

How

Police will ensure that:

all relevant staff are suitably trained and aware of their responsibilities when exercising any powers under the Trespass Act 1980

for staff safety any discretionary action taken is in accordance with Police safety policies and that the [TENR-Operational threat assessment](#) tool is utilised. This will ensure compliance with the Health and Safety at Work Act 2015

if any offences are identified actions such as enforcement detention and/or prosecution as deemed appropriate will be taken

Related instruction

This instruction should be read in conjunction with the Police Manual chapter ‘[Community disclosure of offender information](#)’.

The Law

An owner / occupier in lawful occupation of a place or land may warn a person to leave that place or to stay off that place (sections [3](#) and [4](#) of the Trespass Act 1980). The lawful occupier may authorise any other person, including a Police employee, to give the warning.

A warning to stay off the place may be given orally but is more generally given in writing, and is commonly known as a ‘trespass notice’. A trespass notice may be issued only if the person is or has been a trespasser or is likely to trespass on that place.

Members of the public have an implied licence to enter shops and similar places open to the public. Before a person can become subject to the Trespass Act this implied licence to enter must be withdrawn.

This is done when the occupier or authorised person informs the person in clear terms that the licence is withdrawn, (e.g., “Go, and don’t come into this shop again” or “Stay off these premises”).

An offence is committed when a person who has been warned to stay off a place wilfully trespasses on that place within 2 years of the giving of the warning.

It is not sufficient merely to tell the person to leave or to inform the person that they are not welcome, as that does not withdraw the implied licence to enter on future occasions. **The person must be advised not to return.**

A trespass notice may be issued to a person who:

- has previously trespassed on that place
- has been warned to leave a place but refuses to leave (in this case the person may also be arrested - section [3](#) Trespass Act 1980)
- enters a place after the implied licence to be in that place has been withdrawn
- is reasonably suspected of being likely to trespass on that place (section [4\(2\)](#) Trespass Act 1980).

Note: The withdrawal of the implied licence to enter and the warning to stay off can be given in the same notice.

Licences to enter and remain

Property rights vs. licences

Common law distinguishes between a personal right to enter and remain upon land and an interest in the land itself. A personal right to enter and remain can be revoked by the person who granted that right, but an interest in the land is a property right that can be revoked only in terms laid down by law.

There are two types of personal rights to enter and remain on land:

- a bare, or implied, licence
- a licence coupled with a contract.

Bare or implied licences

Bare or implied licences exist when occupiers allow people onto their land in circumstances where, without the licence, such entry would be unlawful. Examples of a bare licence include when a shopper enters a bookshop to browse, or when a collector for charity calls at a house.

As the licence is not given for consideration (i.e. no money changes hands) a bare or implied licence may be revoked at any time and failure to leave after revocation of the licence constitutes trespass.

Licence coupled with a contract

A licence coupled with a contract exists when permission to enter is given for a consideration (some form of payment is made). The person's right to enter is guaranteed by contract and cannot, therefore, be arbitrarily revoked.

For example, people who have bought tickets to the theatre or similar entertainment cannot be removed from the premises on the management's whim. They have a right to stay for the duration of the performance if they behave properly and obey the management's (reasonable) rules.

Patrons can express their approval or disapproval of the performance if they do so reasonably and with regard to the rights of other members of the audience. They should not create a disturbance or behave in a disorderly manner (sections [4\(1\)\(a\)](#) and [37](#) of the Summary Offences Act 1981). If they behave in this way or disobey the management's rules, they are in breach of the contract and can be asked to leave.

Trespass and residential premises

Where a person has a tenancy (is a lessee) for the purposes of the Residential Tenancies Act (RTA), his or her rights and obligations (as well as the rights and obligations of a landlord (lessor)) are determined by that Act. The Tenancy Tribunal has exclusive jurisdiction to determine disputes between landlords and tenants.

A landlord may apply to the Tenancy Tribunal for an order terminating a tenancy where, for example, the tenant has failed to pay rent, or has damaged the property. An order of the Tribunal terminating the tenancy simultaneously operates as an order for possession of the property, thereby returning to the landlord rights of occupation of the property. Possession orders enable the landlord to have the tenant

removed from the premises. Once the possession order is filed with the District Court a court enforcing officer may assist the landlord in removing the tenant, but a landlord may not remove a tenant without such an order.

If a residential tenant refuses to leave the premises at the end of a tenancy the landlord must not enter into possession of the premise without a possession order made by the Tenancy Tribunal.

The RTA is designed to deal with a range of disputes between those who occupy residential premises and those who own them. For this reason, **trespass notices should not be issued by Police where access to a residential property is disputed.**

Enforcing tenancy possession orders

Police cannot enforce a possession order from the Tenancy Tribunal. The possession orders must be firstly filed with the District Court, where they become eviction warrants that a bailiff can use to evict someone from a property. **Note** that:

- section 106 of the Residential Tenancies Act 1986 requires a possession order be filed with the District Court before it can be enforced;
- once filed, the enforcement timeline outlined in section 138 of the District Court Act 2016 applies; and
- a Court bailiff should be the first option for enforcement of the order, however:
 - where necessary it can also be enforced by Police who then have the powers as if the possession order is a warrant for the recovery of land as in section 194 of the District Court Act 2016.

Boarding house tenants

Unlike tenants, a boarding house occupant may be subject to the supervisory control of the landlord even if the tenant has exclusive right to occupy his or her room. Boarding house tenants are licensees; they have exclusive possession of a room, but no estate in the land. Again, the general rule is that the landlord must seek a possession order if the boarding house tenant fails to vacate the boarding house following lawful termination of tenancy.

Once the landlord has been granted a possession order in the District Court police may oversee the court officer's eviction of the former owners.

Squatters

Squatters do not hold licences. A squatter does not have permission from the occupier of the premise to be there. The occupier may seek assistance of the court once the Tenancy Tribunal has issued a possession order in favour of the occupier.

Once the occupier has been granted a possession order in the District Court the police may oversee a court officer's eviction of the squatters.

Trespass and Māori Land

Māori concepts of land holding differ from Pakeha concepts Communal ownership and a sense of a continuing relationship with and obligations to land are tenets of Māori beliefs and are reflected in our law

The Te Ture Whenua Māori Act 1993 promotes the retention of Māori land in the hands of owners, their whanau and hapu, to protect wahi tapu, and facilitate the occupation, development, and utilisation of that land for the benefit of those owners, whanau and hapu. The primary purpose of the Te Ture Whenua Māori Act is to provide for the protection and management of Māori freehold land; land whose beneficial ownership has been determined by the Māori Land Court.

A freehold order issued by the Māori Land Court, once registered, vests the land in named persons as tenants in common for an estate in fee simple (freehold-but may still have a mortgage).

Māori land may be held in trust for the beneficial owners of the land. Several types of trusts may be established for administration of Māori land. Applicable rules vary, depending on the nature of the trust. The trustees are occupiers of the land and can therefore determine who is permitted access to and use of the land. They may deny individuals access to the land, by means of a trespass notice, even if those individuals are beneficial owners of it.

Beneficial owners of Māori land might seek to resist a trespass notice served on them on the basis of their beneficial ownership Beneficial owners might seek to exclude others from the land

The Māori Land Court may determine claims for damages for trespass or other injury to Māori freehold land (s¹⁸(1) (c) Te Ture Whenua Māori Act).

Injunctions

The Court may issue injunctions against actual or threatened trespass or injury to Māori freehold land and all Māori reservations including taking of products from the land and the distribution of proceeds of any alienation The Court may also issue injunctions requiring occupiers to leave the land and to remove structures those occupiers have erected on that land

Even if the Court issues an injunction compelling an individual or group to vacate the land, Police may not act on the injunction itself. Where an injunction is issued by the Māori Land Court, pursuant to section ⁸⁵ of the Te Ture Whenua Māori Act, it is then transmitted to the High Court for filing in that Court. The injunction may be enforced after a writ of attachment (court order to seize an asset) is issued by the High Court (or other means of enforcement is permitted by the Court). The writ of attachment allows enforcement of the terms of the injunction and may be acted on by an officer of the Court.

Case law makes it clear that a beneficial owner of Maori land may be trespassed from that land by trustees of that land. In *Police v Taueki* [2016] NZHC 3098 Police appealed the lower court's findings that the trustees of the land were not occupiers of that land and so were not empowered to trespass Mr Taueki from it. The second point on appeal concerned the nature of Mr Taueki's interest in the land in question. While Mr Taueki was a beneficial owner of the land the High Court determined that the trustees of the land were empowered to trespass him. Finally, the Court held that there was sufficient evidence of the trustees' resolution (the decision made by trustees) to trespass Mr Taueki, satisfying the procedural requirement of

recording (and thereby proving) the decision to trespass him.

Police are frequently asked to intervene in disputes over occupation of Maori land. Given the complexity of titles to Maori land, and the possibility that many persons may have an interest in any one parcel of land, it is not easy for Police to establish with certainty when and if a group with interests in the land may override the interests of another group. Disputes over access to Maori land are best dealt with in a civil setting, and where possible Police should stay out of civil processes unless there is a risk of disorder or violence (in which case the issues may be criminal in nature, not civil).

Where allegations of trespass to Maori land are made, and police assistance sought, staff may wish to contact the Maori Land Court. Court staff may be aware of the dispute and / or proceedings may be before the court. Information obtained from Court staff may inform the police response; which could simply be ensuring maintenance of the peace pending resolution of proceedings. As well, Iwi Liaison Officers and Maori Wardens may be called upon for practical advice and assistance.

Enforcement of Māori Land Court Orders

Police may be obliged to participate in enforcement of Māori Land Court orders

For the purpose of enforcing any order made by the Court for the payment of money, according to section [81\(1\)](#) of the Te Ture Whenua Māori Act, a Māori Land Court Judge may, on the application of any party or of the Judge's own motion, transmit a copy of that order to the District Court where it shall be filed as of record in the District Court. Upon filing, the order must be deemed to be a judgment of the District Court and enforced as if the order has been made in a proceeding of the District Court.

Similarly, if the Māori Land Court makes an order for the recovery of land, according to section [81A](#) of the Te Ture Whenua Māori Act, the Court may, on application of any party or of its own motion, transmit a sealed copy of the order to whichever of the High Court or District Court to enforce the order. Upon filing, the order is treated as having been made by the enforcing court and may be enforced by the enforcing court.

If a Māori Land Court order is to be enforced as a District Court order, the District Court Act 2016 applies. An order may be enforced by Police if the District Court issues a warrant for enforcement according to part 10 of the District Court Act 2016.

If a Māori Land Court order for the recovery of land is to be enforced as a High Court Order a High Court Judge can direct enforcement through a possession order If a possession order is made Police are authorised and required to enforce possession of the land per the order according to part 17 of the High Court Rules 2016

Police assistance to court officials

Police should only become involved in removing a person from property where the court enforcing officer overseeing the removal holds a possession order or similar court process authorising possession of the property in question. In such cases, police are acting to support the actions of the enforcing officer and should be covered by the protections afforded to that officer. In general, the court order on which the

enforcing officer is acting itself provides sufficient authority for the action taken. If the action taken exceeds the authority of the relevant court order then the enforcing officer could be held liable (as could Police). For this reason, Police should satisfy themselves, even when assisting court enforcing officers, that the officers are properly exercising their powers.

Trespass by Police

Police constables are subject to the same laws of trespass as any other citizen unless they have legal authority to enter property under warrant or under warrantless powers such as under sections [14](#), [15](#), and [20](#) of the Search and Surveillance Act 2012, and section [119](#) of the Land Transport Act 1998.

Constables can enter a property and knock on the door but if the occupier, expressly or by implication, asks them to leave, in the absence of lawful authority to remain, they must do so. If, however, before being asked to leave, a constable tells the occupier that he / she is under arrest, the constable can stay for the purpose of taking the occupier into custody.

Police constables do not have an absolute right to enter premises where meetings or public entertainments are being held but may do so when they have reasonable grounds to believe that a breach of the peace may occur. In such cases they are entitled to remain and efforts to remove Police can constitute an assault on a constable in the execution of their duty.

Trespass notices

Lawful occupiers can warn persons to stay off their land. This is commonly called a trespass notice. In effect, a trespass notice removes the licence that a person might otherwise have to enter and remain on land.

Under section [5](#) of the Trespass Act 1980, the warning to leave and not return may be oral or written. A written warning may be delivered to the person concerned or sent by tracked courier service to their usual home address in New Zealand as registered mail is no longer available via NZ Post.

In *Dixon v Police* (High Court Christchurch, 18 September 1985) the court held that, under section [3](#), a verbal warning was sufficient: for example, “I want you off my property right now”. Under section [4](#), however, the warning must be more formal, with explicit instructions: for example, “I want you to leave my property right now and, under the terms of the Trespass Act, I do not want you to come back onto my property for two years”. It is not enough to merely tell the person to leave or to inform the person that he or she is not welcome, because that does not withdraw implied licence to enter on future occasions. The court also preferred that warnings be in writing, setting out the purpose of the warning and the consequences of failing to observe it.

A trespass notice may be issued only if the person is has been or is likely to be a trespasser. In particular a notice can be issued to a person who:

- has previously trespassed on that place
- has been warned to leave a place but refuses to leave
- enters a place after the implied licence to be in that place has been withdrawn

- while in a place, has had the implied licence to be there withdrawn, and the occupier has reasonable cause to suspect that the person is likely to trespass on that place.

Note: The licence withdrawal and warning to stay off can be given in the same notice

Trespass on licensed premises

Licensed premises are private property. This means that licensees may use the powers available under the Trespass Act 1980.

[Hospitality New Zealand](#) (HANZ) has a standard warning notice which allows the licensee to specify the reason for asking a person to leave, such as drunkenness and violent behaviour, and to deprive the person of the right to re-enter for up to 24 months.

Public meetings

Public spaces

When a meeting is held in an open public place, the chairperson of the meeting cannot prevent anyone from attending.

Hall or other restricted area

When a meeting is held in a hall or other restricted area, there is no automatic right to attend the meeting. If the chairperson asks people to leave, they must do so, because the chairperson is acting on behalf of the person or organisation that hired the hall and is effectively the occupier.

Shareholder meetings

The meeting of a listed public company is a meeting of the shareholders of that company. They decide who can attend.

Meetings of public bodies

At the request of the chairperson or lawful occupier you can, for the purpose of preserving order, remove persons from halls or venues hired or made available for an election meeting. Refer to '[Guidelines for policing election meetings](#)' in the 'Election and political matters-a guide for Police employees' chapter.

Trespasser photographs and information

In some circumstances photographs may be issued

Official Police photographs may be issued in accordance with the '[Community disclosure of offender information](#)' chapter to occupiers of commercial or retail premises who are participating in a trespass scheme but Police will not issue 'informal' photographs of persons in custody to scheme participants.

Photographs and personal information will be issued only where there is a crime prevention need. They will not be issued merely because a person has been warned to leave or stay off the premises by the occupier for non-criminal behaviour.

After an arrest for shop theft or other offending, an occupier may ask Police for that person's name and address. The person's name and address can be released to the occupier in order for the occupier to issue a trespass notice.

In appropriate cases, such as when there is concern about the person's behaviour or where a person has been seen acting suspiciously on security surveillance cameras and needs to be identified to be arrested, security surveillance footage may be released to the public in accordance with the '[Community disclosure of offender information](#)' chapter. Great care needs to be taken to ensure that release is necessary and appropriate in the circumstances. Staff must consult with their manager, and if necessary Legal Services.

Trespass notices

Serving the trespass notice

Section [5](#) of the Trespass Act 1980 says that a trespass notice “shall be given to the individual person concerned either orally, or by notice in writing delivered to him or sent to him by post in a registered letter at his usual place of abode in New Zealand”.

It is recommended that the trespass notice be served personally on the individual concerned rather than orally or sent by tracked courier service to their usual home address in New Zealand as registered mail is no longer available via NZ Post.

Serving a trespass notice personally should minimise later disputes over whether the person was aware of the notice.

Reasonable time should be allowed for the trespasser to leave. If the person remains or is taking an unreasonable time to leave, that person can be arrested.

Private premises

You may issue trespass notices on the request of, or on behalf of, an occupier of private premises that are not open to the public, or to enforce the Trespass Act after an occupier of private premises has made a complaint. However, as a general practice you should not issue trespass notices unless there is a valid reason why the owner / occupier cannot issue the notice. Good reasons for the owner / occupier not issuing a trespass notice may exist where the occupier fears the person they wish to serve the notice on. In such circumstances, consider whether other / additional responses might be appropriate, e.g. a warning or a charge such as threatening behaviour under the Summary Offences Act.

Commercial premises

You **should not** become involved in issuing trespass notices on behalf of commercial enterprises such as shops, yards and similar premises customarily open to the public. Exceptions arise where occupiers are in fear of people on whom they wish to serve notices, where there are large crowds, where the owners are unavailable, or for other valid reasons.

Do not issue a trespass notice unless:

- you are satisfied that you know who the lawful occupier of the property is
- there is good reason why the occupier cannot deliver the trespass notice themselves, and
- you have the occupier’s authority in writing (unless written authority is impractical in the circumstances- and you should make a clear file note confirming the occupier’s authority for you to act), and
- you are issuing the notice to prevent crime, offences of disorder, or breaches of the peace being committed in or on those premises or any other premises in which there is reasonable cause to suspect the person will trespass.

Verbal trespass

If a trespass notice is delivered verbally, it is advisable to record the instruction while it is still fresh in your mind, the date and time along with the reason for giving a trespass notice to that person, and a name or description of the person asked to leave.

Written trespass

Templates of a **Trespass Notice** and **Details of Service of Trespass Notice** are available on the [Police internet](#) (for public use).

Print two copies - one to serve and the other to keep, with details about how the trespass notice was served recorded in the 'Details of Service of Trespass Notice' part.

The completed trespass notice can be served by the occupier or an agent of the occupier with the occupier's authority. 'Occupier' means any person in lawful occupation of that place or land and includes any employee or other person acting under the authority of any person in lawful occupation of that place or land.

To serve a notice, simply hand it to the person. If they refuse to accept it and it drops to the floor, it is still considered served. Keep that copy and note down that the person refused to accept the notice.

Rule [3.42](#) of the District Courts Rules 2009 provides some guidance on personal service. Personal service of a trespass notice is permissible and may be effected "by leaving the document with the person to be served, or, if that person does not accept it, by putting it down in that person's presence and bringing it to that person's attention".

Entry of outcome and alert on NIA

Record service of the trespass notice as a '2Z' (Other Service Request) via Winscribe (or other locally agreed method) so that an occurrence and alert can be generated. This file should be electronic only with no need for a hard copy file.

There should be sufficient information contained in the alert to inform staff and clearly identify the reasoning behind the decision so as to support any challenge at some later point. In this situation it would be appropriate to attach supporting evidence/documents to the NIA alert.

Note: This is particularly important in the issue of blanket trespass notices.

Storage of 'Trespass Notice' and 'Details of Service of Trespass Notice'

Scan and attach the 'Trespass Notice' and 'Details of Service of Trespass Notice' and attach to the 2Z occurrence. Destroy the original working documents so as to keep the file fully electronic.

Blanket trespass bans

This section of the chapter is focused on:

- the legality of blanket trespass notices
- good practice for Police when responding to incidents involving blanket trespass notices
- Police discouraging the practice of issuing blanket trespass notices by licensees, managers and staff of licensed or commercial and retail premises.

It will provide staff with an understanding of the legal implications of the use of blanket trespass notices and good practice guidance in the field.

Section [4\(2\)](#) of the Trespass Act 1980 has been used to issue ‘blanket’ trespass notices banning shop thieves or disorderly patrons from commercial and retail premises.

Blanket trespass notices are often held to be invalid by the court because it is difficult to show that a person is **reasonably likely to trespass on each and every location listed in the blanket trespass notice**. They can also be seen as unreasonably restricting free movement.

For this reason, Police officers must not issue, promote or become involved in serving blanket trespass notices without first obtaining legal advice.

Commercial entities have developed [trespass notice schemes](#) that involve the issue of blanket trespass notices to intoxicated and disorderly patrons to ensure they stay off a group/number of licensed premises or other private premises. For example, a blanket trespass notice may be used to bar shop thieves from entering multiple retail stores in the same chain or intoxicated persons from entering multiple licenced premises.

[Blanket trespass notices](#) are issued where either the participating owner/occupier:

- authorises other participants to issue trespass notices in respect of their premises, or
- is advised of the risk posed by an intoxicated and/or disorderly person (perhaps at a regular meeting) and decides to trespass the person from their premises.

Definitions

This table provides definitions for key terms used throughout this document.

| Term | Definition |
|---------------------------------|--|
| Blanket trespass notices | The term 'blanket trespass notices' means those notices issued under section 4 of the Trespass Act 1980 often banning intoxicated and/or disorderly patrons from multiple licensed premises, banning thieves from participating commercial and retail premises or banning access to multiple pieces of land belonging to a cooperating group of owners, e.g. forestry blocks or farm land. |
| Occupier | <p>'Occupier', in relation to any place or land, means any person in lawful occupation of that place or land; and includes any employee or other person acting under the authority of any person in lawful occupation of that place or land. Section 2 Trespass Act 1980 refers.</p> <p>Note: Licensed premises are regarded in law as private land.</p> |
| Trespass notice schemes | <p>'Trespass notice schemes' refer to community schemes, where each participant (occupier) either:</p> <ul style="list-style-type: none"> - authorises other participants to withdraw a person's licence to enter and stay on any participating premises and/or issue trespass notices in respect of any participating premises, or - is advised of incidents involving intoxication, theft or disorder at other participating premises and decides whether or not they will also trespass the person from their premises. |

Is it legal to issue blanket trespass notices?

Test:

-
- Section [4](#) of the Trespass Act 1980 requires an occupier of a place to have reasonable cause to suspect that a person is likely to trespass on that place before he or she can warn a person to stay off that place. In the case of a blanket trespass notice, the occupier needs to have reasonable cause to suspect that a person is likely to trespass to **each and every** place listed on the trespass notice.

Blanket trespass notices should only be used in exceptional circumstances

Police are discouraged from promoting or participating in blanket trespass schemes because of the underpinning legal principle discussed above. It is difficult to establish any reasonable likelihood that an individual will trespass on every location named on a blanket trespass notice. This means that blanket trespass notices are generally difficult to enforce in court.

Direction to staff

Police should not issue, promote or become involved in serving blanket trespass notices unless there are exceptional circumstances justifying their use. Officers must seek legal advice to ensure that the legal test is met, and must satisfy themselves that there is reasonable cause to suspect that the person is likely to trespass on every place covered by the notice.

Good practice guidelines in respect of blanket trespass notices

Action for Police (premises using blanket trespass notices)

Given the risks associated with blanket trespass notices, Police must seek legal advice before becoming involved with any trespass notice scheme that promotes the use of blanket trespass notices. Their use is generally to be discouraged.

Section 4(2) of the Trespass Act requires the occupier to restrict the particular places included in a trespass notice to those where the occupier has reasonable cause to suspect the person will enter.

Step Police action regarding blanket trespass notices

- 1 Discourage all licensing, commercial and retail action plans and accords from promoting trespass notice schemes using blanket trespass notices.
- 2 Do not endorse any trespass notice scheme that uses blanket trespass notices.
- 3 Do not enforce trespass notice schemes using blanket trespass notices unless you are satisfied that the person issuing the trespass notice:
 - has the authority to issue trespass notices in respect of all premises listed in the notice; and
 - there are reasonable grounds to suspect that the person is likely to trespass on each place listed and has trespassed on one of the places listed.
 or
 - you have obtained legal advice confirming that the scheme is likely to be a valid use of a blanket trespass notices.
- 4 Encourage licensees, managers and staff from licensed, commercial and retail premises as occupiers to:
 - stop issuing blanket trespass notices
 - issue individual trespass notices on persons:
 - who have trespassed on their premises, or
 - where they have reasonable cause to suspect that those persons are likely to trespass on their premises
 - serve their own trespass notices in person or by registered post

Note: Should licensees, managers and staff remain in doubt about the validity of the trespass notices then suggest they seek their own legal advice.
- 5 If Police arrest and charge a person with an offence involving licensed premises, then consider seeking bail conditions requiring them to “stay off” and not to “enter” licensed premises.

Instances where issue of a blanket trespass notice may be lawful

Blanket trespass notices may be lawful if the:

- person issuing the notice is the **occupier of all** the premises identified in the blanket trespass notice **and has reasonable cause to suspect** that the person is likely to trespass on each and every place listed,
- licensed premises identified in the blanket trespass notices are controlled and owned by a single licensing trust or, for example, a committee running a ‘Trespass Charter’ and the trust issuing the notice has reasonable cause to suspect that the person is likely to trespass on each and every place listed in the notice; or

- committee running a 'Trespass Charter' or 'Trespass Notice Scheme' has proper guidelines and procedures to ensure that a notice is issued with the participants' authority and where the places specified on the notice are those where there is a reasonable cause to suspect the person will trespass.

Circumstances that might justify the issue of a blanket trespass notice

A blanket trespass notice might be justified:

- to prevent continuing crime by repeat offenders, providing the occupier has reasonable cause to suspect that the trespasser is likely to continue their pattern of behaviour at all locations identified in the notice
- to exclude persons from several premises where their conduct or actions compromise staff and customer safety at those premises.
- where an individual poacher is reasonably suspected of poaching on multiple blocks of land (i.e. forestry blocks).

Legality of blanket trespass notices

Blanket trespass notices are almost always held to be illegal. For this reason Police should exercise extreme care before serving or enforcing these notices.

Refer to *Auckland Council for Civil Liberties and Others v Attorney General (Police)* (High Court Auckland Registry CP 452/93 10 November 1993 Williams J) and to [*Police v Heke*](#) (aka Stanton) Nelson District Court 07/09/2011 CRI 2011 042 435

In first case (Auckland Council for Civil Liberties) Police received advice from the Solicitor-General that blanket trespass bans were likely to be held invalid by the Court; assurances and undertakings were then given by Police to the plaintiffs. This led to the matter being resolved between the parties without the need for litigation.

In [*Police v Heke*](#) the Nelson City Council issued a blanket trespass notice to Mr Heke that covered almost all Council controlled parks and reserves in the Nelson area. The notice was held to be unreasonable and unlawful. This is because the notice:

- purported to limit Mr Heke's right to free movement
- covered areas Mr Heke was unlikely to visit,
- did not assist him to determine where he could go

Whilst there is no identified case law to support this proposition the courts may more readily entertain blanket trespass notices issued in respect of private property than those issued in respect of premises the public may enter Because of the uncertainty around this point officers must seek legal advice

Trespass procedures

Trespass after warning to leave

If a person trespasses after being warned to leave, follow these steps.

| Step | Action |
|-------------------------|--|
| 1 | Obtain the complainant's full particulars and be sure they are an occupier |
| 2 | Ascertain all facts about the complaint. |
| 3 | Decide whether the suspect is there without authority. |
| 4 | Ask the complainant to, in your presence, warn the person to leave. |
| If the person... | |
| . | |
| leaves peacefully | record full particulars - if the occupier asks you to, warn the suspect to stay off and tell them it is an offence to return to the premises within two years. |
| refuses to leave | - Ask the complainant in the presence of the person: "Do you wish me to act on your behalf?" - If the complainant says "yes", warn the person to leave. Give the suspect a reasonable time to do so. - If the person still refuses, you can arrest. If the person is carrying a firearm ensure that this is recorded in the NIA occurrence and that a Firearms Licence check is carried out. |
| | |

Trespass after warning to stay off (wilful trespass)

If a person trespasses after being warned to stay off, follow these steps.

| Step | Action |
|------|--|
| 1 | Obtain the complainant's full particulars and be sure they are an occupier. |
| 2 | Ascertain that a warning was issued to stay off the place within the last two years. The person must have been advised to stay off for 2 years |
| 3 | Ideally get the person to acknowledge the previous warning. |
| 4 | Ask the person for an explanation. |
| 5 | Warn the person to leave and arrest if they refuse to do so. |

Being found on property without reasonable excuse

If a person is found on property without a reasonable excuse, follow these steps.

| Step | Action | | | | | | |
|-------------------------------------|---|-------|---------|-------------------------------------|--|---------------------------|---|
| 1 | Be sure that the person has been found without reasonable excuse in one of the places named in section 29 of the Summary Offences Act 1981 | | | | | | |
| 2 | Decide whether there was criminal intent. | | | | | | |
| | <table border="1"> <thead> <tr> <th>If...</th> <th>then...</th> </tr> </thead> <tbody> <tr> <td>there was no criminal intent</td> <td>warn the person to leave and if this is refused, you can arrest for an offence under section 29(1).</td> </tr> <tr> <td>there was criminal intent</td> <td>you can arrest under section 29. Search the person and obtain full particulars of victims and a proper description of the place involved</td> </tr> </tbody> </table> | If... | then... | there was no criminal intent | warn the person to leave and if this is refused, you can arrest for an offence under section 29(1) . | there was criminal intent | you can arrest under section 29 . Search the person and obtain full particulars of victims and a proper description of the place involved |
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| there was criminal intent | you can arrest under section 29 . Search the person and obtain full particulars of victims and a proper description of the place involved | | | | | | |

Obligation to give name and address - section 9

An occupier or constable may require any person found trespassing to give their name and address, and the number of their firearms licence under the [Arms Act 1983](#) if the person is in possession of a firearm.

If the trespasser fails or refuses to give the constable this information, the constable may caution the person for failure or refusal to supply the required particulars and if the person continues to fail or refuse to provide the information, may arrest without warrant.

Trespass on state highways

Background

In May 2009 thousands of people, after breaking a Police cordon, walked or cycled over Auckland Harbour Bridge to campaign for access over the bridge. This caused traffic chaos and put motorists and other road users at risk.

To ensure Police are authorised to act on behalf of New Zealand Transport Agency (NZTA) in dealing with crowds or protesters in such situations, the Agency has authorised all constables of New Zealand Police by way of delegation to act on its behalf to prevent any person from trespassing on [state highways](#) or NZTA controlled land for the purposes of section [56](#) Crimes Act 1961 (relating to reasonable defence of land or buildings) and the Trespass Act 1980.

State highways

State highways are roads that are declared by notice in the *Gazette* to be a state highway. They are not Territorial Local Authority (Council) administered roads. (Refer to sections [5](#) and [103](#) Land Transport Management Act 2003).

Management of state highways

One of the functions of NZTA (see section [95](#) of the Land Transport Management Act 2003) is to manage the state highway system. The Agency's powers and duties in relation to state highways are set out in section 61 of the Government Roading Powers Act 1989. Section [61\(2\)](#) states:

(2) All rights and powers vested in any local authority under sections 353 of the Local Government Act 1974 *and all rights and powers vested in any local authority in relation to roads under any other Act, may, in respect of any state highway be exercised by the Agency (i e NZTA)*

Right to enforce the Trespass Act on state highways

The Court of Appeal decision in *Police v Abbot & Mountier (Police v James Abbott (CA109/2009) and Frances Mountier (CA110/2009))* raised the issue of powers of a local authority to invoke the Trespass Act 1980 in relation to a peaceful protest on an area designated as a road. The respondents argued that the Trespass Act could not be applied to public roads as trespass law protects a right of exclusive occupation which the Council did not possess as the public has a common law and statutory right to pass and re-pass on the highway together with an associated right to freedom of assembly under the New Zealand Bill of Rights Act 1990 (NZBORA).

Section [317\(1\)](#) of the Local Government Act 1974 vests in fee simple (freehold but may still have a mortgage) all roads in the council of the district in which they are situated and section [353](#) states that the Council shall take all sufficient precautions for the general safety of the public and traffic and workmen employed on or near the road

The Court held that these provisions give Council control over the land, that the Council is an 'occupier' and could avail itself of the Trespass Act. The fact that there were other remedies in the Local Government Act

did not mean that the Trespass Act is excluded, although in some circumstances it may not be reasonable for the Council to choose to rely on trespass rather than engage relevant provisions of the Local Government Act. The appropriate remedy will be a question of fact and degree in a particular case.

When is it appropriate for Police to exercise the NZTA delegation?

When authorising all constables to act under the Trespass Act on their behalf, the NZTA advised that because of the public's right to use and have access to a state highway, their power to enforce the Trespass Act "should only be carried out when an assembly on state highways is obstructive or creates a nuisance".

In addition to the restriction imposed by the NZTA, Police must:

- be satisfied that it is reasonable to use the Trespass Act rather than any other powers available to them
- ensure that the rights and freedoms in the New Zealand Bill of Rights Act 1990 (including freedom of expression and peaceful assembly) are limited only to the extent reasonably necessary.

Determining 'reasonableness'

Factors to consider when deciding if using the Trespass Act (in situations involving trespass on state highways) is reasonable include:

- whether the assembly is unreasonably prolonged
- the rights and freedoms of other people using state highways
- the size of the assembly and its duration, when balancing the competing interests of the public authority and the effective operation of the property it owns against the interests of individuals wishing to assemble and to express themselves.

(See [Police v Beggs](#) [1999] 3 NZLR 615 (HC) (case involving protestors trespassed from Parliament grounds).

Liaison required with NZTA

If there is advance warning of any protests or disruption by crowds on state highways Police must liaise with regional NZTA staff with the aim of developing measures to prevent the trespass or to best manage the trespass should it occur

Contact details for liaison

Road Policing managers and other senior Police managers meet regularly with Regional Managers from NZTA to discuss matters of mutual interest. If you become aware of planned disruptions on state highways, advise your district's Road Policing Manager or Area Commander as soon as possible so that they can raise the matter with the appropriate NZTA managers through their usual network contacts.

In the event of an emergency or if road closure assistance (e g contractors etc) is required ask your local Comms Centre to contact the NZTA call centre which acts as a single contact point for Police to report events on state highways

The delegation

The delegation of powers from New Zealand Transport Agency comprises two parts:

- a sub-delegation from the Chief Executive NZTA to NZTA's Regional Director, Auckland and Northland of his power to authorise all members of NZ Police to act on behalf of the agency
- an authorisation from the NZTA's Regional Director Auckland and Northland to **every** NZ Police constable

These delegations can be viewed in the [Delegations](#) section of the Police Instructions site

Printed on : 13/06/2022

Printed from : <https://tenone.police.govt.nz/pi/police-manual/operations-prevention-and-emergency-response/incident-and-emergency-response/trespass>