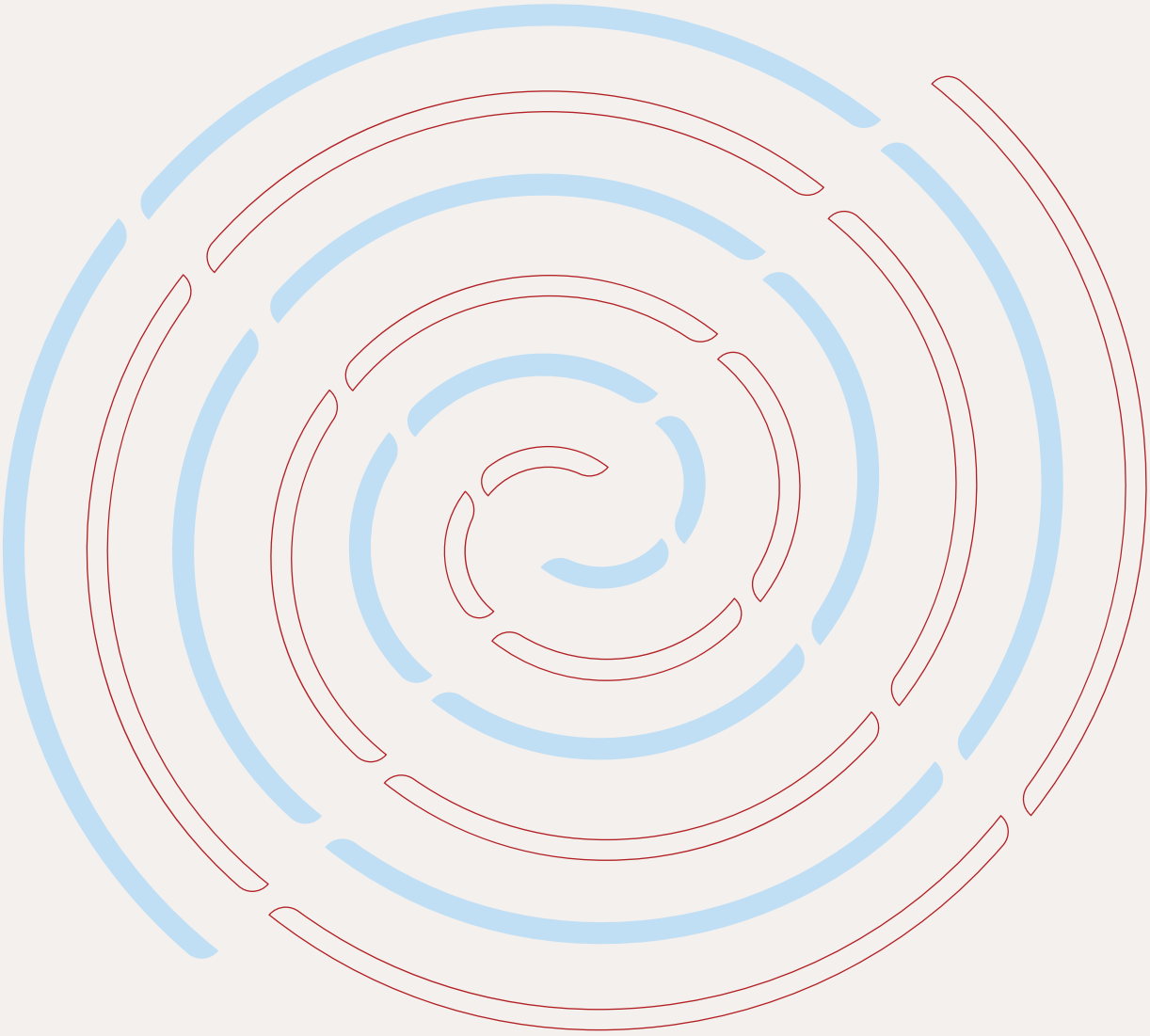
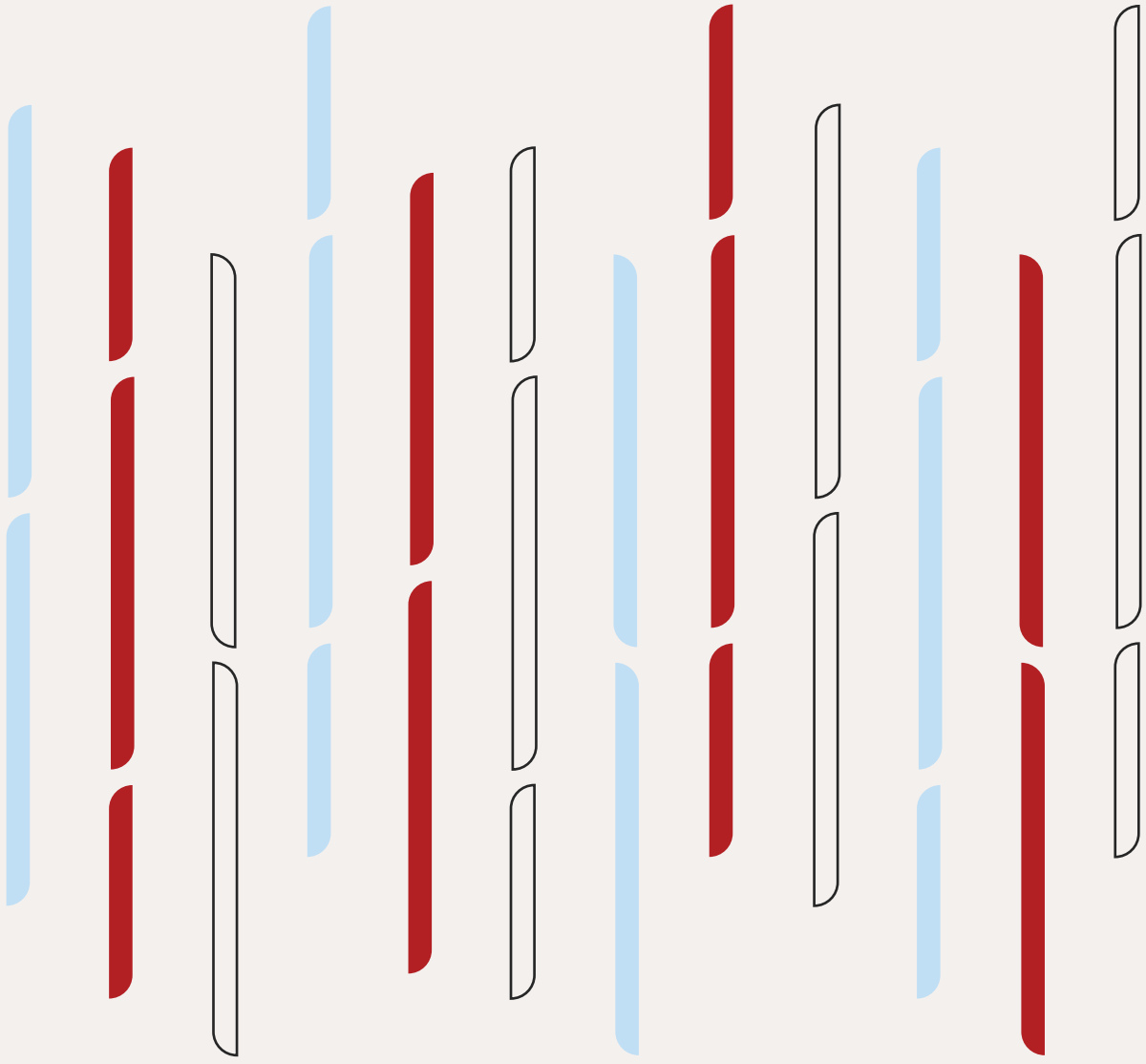
Understanding Policing Delivery
Analysis of TASER data

# Evidence Report Three



UPD
UNDERSTANDING POLICING DELIVERY

August 2024
Ihi Research



# Understanding Policing Delivery

Understanding Policing Delivery is an independent research programme looking at fair and equitable policing for Māori and other communities.

Both the Articles and the Principles of Te Tiriti o Waitangi serve as foundational to the programme, along with the values of Kaitiakitanga, Manaakitanga, Whakamana, Whanaungatanga, and Aroha ki te Tangata.

In the context of Understanding Policing Delivery, whanaungatanga has driven our way of working. Embodied as the creation and maintenance of strong relationships between the different rōpū who have embarked on this journey of work together

With contributions from the UPD Operational Advisory Group and UPD Ethics Committee.

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Analysis of TASER data

# Evidence Report Three

Research
Social Change
& Innovation

2024
Ihi Research

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# Acknowledgements

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# Executive summary

**Understanding Policing Delivery (UPD) is a large New Zealand Police research programme that seeks to identify whether, where, and to what extent bias exists at a system level in the Police's operating environment.**

This study is part of the first phase of the two-year investigation into equity and fairness in policing in Aotearoa, New Zealand, led by Ihi Research in collaboration with Ngā Pirihimana o Aotearoa/New Zealand Police (Police). Overall, the research aims to investigate three key areas of Police-community interactions:

- Who Police stop and speak to, and how Police engage with them,
- decision-making around the use of force, and
- decision-making around laying charges.

Ihi Research was contracted to investigate these aspects of Police-community interactions, with a particular focus on Māori. This is one of four projects contributing to the first phase of the research. The methodology was Māori-centred, utilising a mixed method and phased[1] approach. The findings are intended to be interpreted with the other forms of data.

The purpose of this study was to investigate the key research question:

- What drives Police decision-making around the use of force?

In particular, this report details an analysis of Police use of TASERs. Otherwise known as conducted electrical weapons (CEWs) or conducted electrical devices (CEDs), TASERs are a tactical option[2] for New Zealand Police. According to the 1961 Crimes Act police officers are able to use force in the lawful execution of their duty (New Zealand Police, 2022a). The use of force "is governed by statute, and any force used must be necessary, proportionate and reasonable" (New Zealand Police, 2022a, p. 6).

[1] The second phase of the approach will be a case study on the impact of TASERs on individuals and whānau.
[2] Tactical options include handcuffs/restraints, empty hand tactics (physical force), OC spray (pepper spray), baton, TASER, dogs, and firearms (New Zealand Police, 2023a).

The Police use a 'threat assessment methodology' "TENR' (Threat Exposure Necessity Response)" (New Zealand Police, 2022a, p. 10). This is "a decision-making process that supports the timely and accurate assessment of information directly relevant to the safety of Police and others" (ibid). The purpose is to give officers a framework for considering their response to potential threat. The underlying principle is "safety is success", including the safety of police officers, members of the public, victims and perceived offenders who are pursued and/or arrested (New Zealand Police, 2022a, p. 11).

According to Police data there has been a "small increase in tactical options use" and only a very small proportion of events result in an individual being TASERed (New Zealand Police, 2021, p. 5). However, independent research on Police use of TASERs is limited. In addition, there is a lack of evidence regarding the impact on the health and wellbeing of those TASERed, particularly on individuals who may be experiencing a mental health crisis.

The sources of feedback analysed for this report are:

- Tactical Options Reports (TOR) Annual Reports from 2016 – 2021.
- A review of literature regarding the use of TASER internationally and in Aotearoa, New Zealand.
- All TOR event events[3] reported in the research period (n=2719).
- All TASER event events reported in the research period (n=786).
- All TASER discharges reported in the research period (n=132).

The data was gathered in June 2023 and included all reported events for the six-month period, 1 July 2022 to 31 December 2022[4]. Data triangulation was achieved through the analysis of different data sets, including TASER camera recordings (video), pulse log records, and Police officer reports of TASER events.

## Key findings

Results highlight patterns in relation to Police decision-making and Police interactions around TASER events and discharge. Themes in the data indicate that an individual's physical appearance including ethnicity, size, gender, age, prior offences (or flags[5]) and Police assessment of an individual's mental health and/or distress can influence decision-making. In addition, camera analysis of TASER firings[6] and non-firings demonstrates variability in the communication skills of Police and their ability to de-escalate tense and chaotic situations, with a view to keeping themselves and others safe.

Data analysed for this report indicates that Police decisions to deploy a TASER are influenced by a number of factors.

### 1. Physical appearance, including ethnicity and size of an individual

The use of TASER is not evenly dispersed throughout the population but is influenced by ethnicity, mental health, age, gender and other socio-demographic considerations, as well as intersectionality between these factors. The physical appearance and size of an individual can influence perceptions of threat and therefore Police decision-making. Māori and Pacific males are over-represented in tactical options reporting and TASER use. The 'size and stature

[3] Police typically report at TOR Event level rather than Event level. The definition of a TOR Event is the reportable use of one or more tactical options, by one officer, against one individual. This offers better granularity because it captures a count for each officer if multiple officers used force on the same subject.
[4] Inclusive of all TORs as at 17 April 2023 which had completed the submission and review process at that time.
[5] A flag is an entry on the NIA Police database regarding previous call outs linked to an individual.
[6] Firings refers to discharges – non-firings refer to presentation, laser painting and arching.

of individuals' is often mentioned in Tactical Option Reports (TORs) as a consideration impacting the decision to deploy a TASER. In reports this is contrasted with officers' physical size and stature.

This could contribute to the TASERing of males aged between 18-34, as they are most likely to appear physically fit and intimidating. While ethnicity is not directly referred to in the narrative reports as a decision-making factor, making decisions based on these characteristics may contribute to the over-representation of Māori and Pacific males in TASER tactic data/ discharge.

## 2. Gender

Women are less likely to be TASERed despite demonstrating assaultive behaviour in TASER video footage. Men were more likely to be TASERed for what appeared to be non-compliance, or for passive resistant behaviour, camera observations indicating far less assaultive behaviour than women in TASER discharge events. Data indicates that officers are considering the gender of the individual before discharging a TASER, which is consistent with international evidence (Brown & Todak, 2022).

## 3. Levels of perceived aggression

How officers perceive aggression and physical threat impacts decision-making. Threat perception, as indicated by the PCA[7], varies greatly across the narrative reporting and camera footage. For some officers, arguing or asking why they had been stopped was noted as assaultive behaviour, for others aggressive stances, and/or verbally threatening Police constituted assaultive behaviour. There is significant variation in how the definition of assaultive behaviour is defined in the TORs.

## 4. Gaining control of a situation

In some reports, perceptions of 'loss of control' or 'gaining control' of a situation were noted as impacting on the decision to use a TASER. There are examples of officers TASERing for non-compliance, particularly when individuals did not get down on the ground quickly enough. They appeared to be TASERed to be subdued or dropped to the ground in order to be arrested.

## 5. Time and resource

In a number of reports and camera footage observations, it was apparent time and resource pressure impacted the officer's decision to use a TASER. In some instances, officers reported needing to resolve difficult situations quickly and being mindful of other callouts. In addition, it appears that when lone officers were in difficult situations this impacted on their decision to use force. Narrative reports indicate that being a lone attending officer increased safety concerns and justified the deployment of a TASER.

## 6. Flags or alerts on the NIA database

Flags or alerts held against individuals on the NIA Police database appear to impact how Police approach situations. These flags can range from family harm involvement, to mental health, gang association, and having carried a weapon or weapons. Officers describe how flags increased their perception of threat, the way in which they entered and managed situations, and in turn their decision to discharge a TASER.

## 7. Previous experience with individuals

TOR[8] narratives noted that some individuals were well-known to the Police. It is apparent that in these cases, previous experience informed future

[7] PCA Perceived Cumulative Assessment - see Appendix 1.
[8] Tactical Options Report.

decision-making. In some cases, this may have meant force was more likely to be used, however, in other cases, relationships and knowledge of the individual diffused or de-escalated situations.

## 8. Mental health flags and/or perceptions of mental health

The use of TASER tactics to deal with 1M/1X[9] situations indicates that mental health callouts or flags impact decision-making. Both TASER camera footage and narrative reports indicate that Police perceived individuals at these events as unpredictable and unsafe. Officers noted in TORs they maintained distance from the individual, increasing the likelihood of a TASER discharge (as it is preferrable to be discharged from a distance). In several 1X situations, the individual was using a weapon (knife) to self-harm and threatened the Police.

## 9. Indications of alcohol and/or drugs

While individuals[10] under the influence of drugs and/or alcohol is mentioned in reports as impacting Police decision-making, the data indicates that the rates of alcohol and drug use reported across TOR tactics did not increase significantly in TASER events. This indicates that while it may be considered, it does not necessarily increase the likelihood of being TASERed. In some non-firing cases, it appears that alcohol and drugs impaired the ability of the individual to be assaultive, however, in other cases, it was noted as the justification to discharge (this appeared most likely in methamphetamine cases where individuals appeared in heightened emotional and assaultive states).

## 10. Perception of weapons

Possession of a weapon was noted by officers as increasing threat and justifying increased force. In some situations, the links made appeared tenuous (ranging from a box of beer to a pocketknife found in a bag after an event). Thirty-eight percent (n=58) of TASER firing events noted the presence of a weapon.

## 11. Fleeing/evading and decamping

Over a third of instances involved individuals fleeing, evading, and/or decamping. There were 1101 events involving TOR tactics where an individual is coded as 'fleeing or decamping[11]'. In 305 of these events, a TASER was shown, and in 54 events, the TASER was fired. The New Zealand Police TASER (CEW) policy states that it is only appropriate to TASER an individual when they are fleeing to avoid arrest and when they believe they pose an imminent threat of physical harm to themselves or others. In addition, even when using a TASER against a fleeing subject is justified, Police must consider the additional risk of injury to the subject following an uncontrolled fall (New Zealand Police, 2022b, p. 13). Evidence in some TASER camera footage and narrative reports appeared counter to the New Zealand Police policy.

## 12. Officer experience/ confidence and communication skills

Officer experience appears to impact decision-making. Officer experience was noted in reports (of other attending officers) as contributing to TASER events. Less experienced officers appear to have lower tolerance for aggressive or resisting behaviour. Observations of non-firing events noted officers who appeared confident and

[9] 1M (mental health call out) 1X (attempted suicide call out).
[10] The use of 'individuals' in this report refers to those who have been subjected to force.
[11] The subject behaviours might occur at any time during the incident, not necessarily immediately proximate to the TASER being discharged.

remained calm in challenging and unpredictable situations were more likely to de-escalate situations by responding in a calm and measured manner. Observational analysis of TASER camera firings and non-firings, demonstrates variability in the communication skills of officers and their ability to de-escalate tense and chaotic situations, keeping themselves and others safe.

## Intersection of these variables increased the likelihood of TASER discharge

As per the Police PCA[12], the intersection of these variables increases the likelihood of being TASERed. For example, a physically large Māori/ Pacific male, with mental health flags, is likely to experience force being used against them. While the intersection of some variables increases the likelihood of being TASERed, the intersection of others decreases the likelihood (for example being a small female - despite other factors such as assaultive behaviour). These patterns align with general criminological research concerning use of discretion. While the threat level described in the TOR may be consistent with the TENR, this did not always match the level of threat observed in video footage.

In analysing decision-making, Ihi researchers also noted what was not mentioned. None of the narratives discussed the inability of individuals to comprehend commands, although footage and descriptions indicate this may have been the case in at least six firing events. In addition, the age of individuals, particularly the young (14 years), or old (65+ years) and the potential impact of both physical and psychological trauma were not discussed, despite evidence that the age of an individual may increase the likelihood of the TASER event resulting in death or trauma. This may be due to the TOR being primarily used for justifying the use of force rather than for learning and development purposes.

Over-representation is a complex issue that cannot be simply explained or remedied with a single piece of evidence or research (Fernado, 2018). However, over-representation of certain groups within the TOR data suggests that ethnicity is a factor in Police decision-making when under threat. The over-representation of groups (such as Māori men) in Police data may confirm stereotypes, in turn over-representation influences future decision-making. The over-representation of Māori and Pacific Peoples in Police TASER data has far-reaching consequences for trust and community-Police relations.

Since the introduction of the TASER in 2010, analysis indicates the use of TASER as a tactical option has steadily increased at a greater rate than population growth. The patterns of over-representation in regard to ethnicity, men, and those who have mental health conditions found in this research are consistent with international evidence.

A number of recommendations are made at the conclusion of the report, including a review of how people in mental health crisis are served by the system, increased training for Police and further investigations into TASER use in Aotearoa, New Zealand.

[12] Perceived Cumulative Assessment.

# Introduction

**Understanding Policing Delivery (UPD) is a New Zealand Police research programme that seeks to identify whether, where, and to what extent, bias exists at a system level in the Police's operating environment (especially Police actions/decisions to stop, arrest and charge citizens, and the use of force).**

Analysed data from the UPD research programme will enable the Police to determine the extent to which their organisational values (Professionalism, Respect, Integrity, Commitment to Māori and the Treaty, Empathy and Valuing Diversity) are evident in Police behaviour and decision-making. This evidence report is one of four reports contributing to the wider research programme agreed upon between Ihi Research, the UPD Independent Panel and the New Zealand Police. The findings are intended to be interpreted with the other forms of data from the research.

## Background

Ngā Pirihimana o Aotearoa/New Zealand Police (Police) is committed to delivering fair and equitable policing. Policing by consent relies on Police transparency to create public confidence and trust in Police actions, particularly when Police use force[13] to maintain law and order and keep themselves and others safe (New Zealand Police, 2023; 2022a). The concept of policing by consent refers to an approach where law enforcement relies on the cooperation and support of the public in maintaining social order and preventing crime (Jackson et al., 2010). The effectiveness of policing is greatly enhanced when there is a positive relationship and trust between the Police and the community. Key features of policing by consent include legitimacy and trust, the enhancement of public safety prevention measures overreaction, and the reduced use of Police force.

### Tactical options and the use of force

New Zealand is one of the few countries that has maintained an unarmed constabulary. Frontline Police do not routinely carry firearms. Police

[13] These include handcuffs, empty hand tactics (physical force), OC spray (pepper spray), baton, TASER, dogs, and firearms (New Zealand Police, 2023).

and public safety are paramount, and although extremely rare, police officers have been killed via criminal acts while carrying out their duties. Fortunately, the likelihood of an injury occurring to a frontline officer in New Zealand is low. In 2021, there were 14.6 events with injury per 100 frontline staff which continues an overall downward trend since 2016 (New Zealand Police, 2023).

It is stated that New Zealand Police "rarely use tactical options" (New Zealand Police, 2021, p. 8). However, Police have a range of tactical options to incapacitate and restrain people and one of these is the use of TASERs[14]. TASERs, otherwise known as conducted electrical weapons (CEWs) or conducted electrical devices (CEDs) are a tactical option for Police. They are a hand-held device that uses "an electrical discharge to cause incapacitation through motor skill dysfunction" (New Zealand Police, 2022b, p. 5).

TASERs are considered a valuable device as they can assist frontline Police to manage challenging and difficult situations, provided they are used appropriately (New Zealand Police, 2008; 2006). Section 48 of the New Zealand Crimes Act (1961) states that any person, including a police officer, is legally justified in using "reasonable" force in defence of themselves or another" (New Zealand Legislation, accessed 12 August 2023). However, a constable's "legal authority" to use force "is also found in several other Acts" (New Zealand Police, 2022a, p. 13).

The New Zealand Police use a Tactical Options Framework[15] (TOF) to support decision-making in all use-of-force events (see Appendix 1). The framework includes de-escalation options and stages of presentation of force. It also includes an assessment of the level of threat that Police perceive, and the necessity for force in a situation. This is referred to as the TENR (see Table 1). In this way TENR encompasses threat to any person, including the subject; not just to Police.

| | |
|---|---|
| T | **Threat**<br>The subject's intent, capability or opportunity, along with the physical environment. |
| E | **Exposure**<br>Awareness of safety, security or public trust and confidence issues. |
| N | **Necessity**<br>Assessment of the need to intervene (act) now, later, or not at all. |
| R | **Response**<br>Proportionate, timely, reasonable, and lawful Police actions using tactics |

Table 1: TENR assessment

The Police use this TENR assessment methodology as part of "a decision-making process that supports the timely and accurate assessment of information directly relevant to the safety of Police and others" (New Zealand Police, 2022a, p. 10). The purpose is to give officers a framework for considering their response to potential threat. The underlying principle is "safety is success", including the safety of police officers, members of the public, victims and perceived offenders who are pursued and/or arrested (New Zealand Police, 2022a, p. 11).

Specific Police guidelines outline the use of TASERs. These include that the Police will:

[14] The word "TASER" has evolved from a brand name to encapsulate all similar products (like "Kleenex"). It can be used as a noun ("he used a TASER on me") or a verb ("he TASERed me" or "TASERed").
[15] See Appendix 1.

- "Show or use TASER in accordance with the law relating to the use of force and in accordance with their perceived cumulative assessment of the circumstances and the subject's behaviour at the time.

- Use TASER only when necessary, proportionate and reasonable in the circumstances." (New Zealand Police, 2022b, p. 5).

As part of the Tactical Options Framework[16] (TOF), Police assess the information known about the situation and the behaviour of the individual to reach a 'Perceived Cumulative Assessment' (PCA).

There are five categories in the PCA, which are represented in the TOF.

1. **Cooperative** - Willingly responds when approached.

2. **Passive resistant** - Refuses verbally or with physical inactivity.

3. **Active resistant** - Pulls away, pushes away, or runs away.

4. **Assaultive** - Intent to cause harm, expressed verbally, through body language/physical action.

5. **GBH or death** - Shows action intended to or likely to cause grievous bodily harm or death to any person.

The purpose of the framework is to support officer decision-making in situations when force is required. The most recent New Zealand Police policy guidelines[17] provide examples of when using a TASER would be justified or would not meet the policy threshold. For example, the use of TASER would be justified if Police attend a IX event where a subject is threatening to stab themselves with a knife, and the threat is judged as posing an imminent threat of physical harm to themselves (New Zealand Police, 2022b, p. 9). In comparison, the use of TASER would not be justified if Police have attempted to arrest a subject for theft and they are fleeing to avoid arrest and/or Police do not believe the person poses "an imminent threat of physical harm" (ibid, p. 9).

The Tactical Options Framework states:

*"The legal authority to use force is derived from the law, not the TOF. If you use force that is not authorised by law or is excessive, the fact that you relied on the TOF will not justify or legitimise the use of that force."*

*"Reasonable force includes force that is necessary and proportionate, given all the circumstances known at the time."*

When force is used, officers are required to complete a Tactical Options Report (TOR), which is submitted to the Tactical database. Police use the TOR database to report annually and to investigate and review TOR events. Every TOR is reviewed by the officer's immediate supervisor and senior district staff. TASER discharge includes further review by the TASER Assurance Forum (TAF), a panel of representatives from the Police. TAF may choose to refer an event to Police Professional Conduct (PPC) or notify the IPCA[18] to conduct an independent investigation. In terms of accountability it is important to note that every TASER discharge is reviewed by the TASER Assurance Forum panel and New Zealand Police report annually on all force incidents including TASER discharges.

[16] See Appendix 1.
[17] Current as of 3 November 2022 available from www.police.govt.nz
[18] Districts can also refer to PPC directly themselves, referrals to IPCA can be made through the forum to conduct an independent investigation of the event.

## TASER

TASERs were initially trialled in Aotearoa, New Zealand after a Police review into the fatal Police shooting of Stephen Wallace, a Māori male in Waitara, on April 30, 2000 (New Zealand Police, 2008). The initial Police TASER trial was conducted from 1 September 2006 to 31 August 2007 in the Police Districts of Auckland, Waitematā, Counties Manukau and Wellington. The review examined less lethal weapons options for managing violent individuals to ensure tactics and equipment were the most effective, and least likely to endanger the safety of Police, the public and offenders (New Zealand Police, 2008).

One thousand two hundred responses were received to a public survey undertaken as part of the review. Results indicated a high level of awareness of the TASER trial (83%) and support for the use of TASERs by Police (79%). Support was lower among Māori respondents at 73% (New Zealand Police, 2008). However, 90% of correspondence sent to the Minister of Police and/or the Commissioner of Police at the time opposed its introduction (New Zealand Police, 2008, p. 17). The respondents who opposed the use of TASER by Police cited concerns such as the risk of fatalities and injuries; the potential for TASERs to be used inappropriately or in a discriminatory way; that there had been a lack of consultation and informed debate; that Police are becoming increasingly armed, and that there was no justification for their introduction (New Zealand Police, 2008, p. 15). Some worried that certain groups, such as those with mental health issues, Māori or Pacific Peoples, would be unfairly targeted.

In contrast, surveyed police officers (39%) felt that there were no disadvantages or risks with the introduction of TASERs. Of the officers who did identify potential risks, some suggested there was the potential for injuries to subjects[19], operator handling errors, as well as the risk of subjects gaining control of a TASER and using it to incapacitate officers (New Zealand Police, 2008). Some respondents reported there were risks that officers may become overly reliant on TASERs, electing to use them at events where firearms should be used. Officers interviewed during the trial suggested, *"that these are risks or disadvantages applying to any tactical option and can be mitigated through the maintenance of discipline and professionalism and the SOPs[20] covering officer selection, training, debriefing, auditing, and sanctioning of inappropriate use"* (New Zealand Police, 2008, p. 18).

The review noted that officers reported they were less likely to be injured because the TASER allowed them to maintain a safer operating distance from violent and/or armed subjects, whereas OC spray and batons required them to be in closer proximity. This was supported by Tactical Options Reports, which showed that no officers sustained injuries that required medical attention in the course of deploying a TASER (New Zealand Police, 2008, p. 14). The majority (84%) of officers surveyed during the evaluation, stated that the availability of TASERs positively impacted how they felt about doing their job, with 50% stating they felt safer and more protected (New Zealand Police, 2008). All officers strongly agreed (72%) or agreed (28%) they were confident about the effectiveness of the device.

The report noted that using TASERs appeared to increase Police confidence and safety. Police officers reported they had increased confidence dealing with subjects who were under the influence of alcohol and/or drugs, and attending events where weapons were present. Furthermore, they stated that TASERs encouraged increased cooperation from subjects and led to quicker resolution of volatile events (p. 15). The New Zealand Police TASER trial noted there was the *'potential to realise benefits such as a reduction in firearms presentations, assaults on Police officers, and injuries to subjects if TASERs were available more widely as a tactical option for NZ Police'* (New

[19] Police use the term 'subject' to refer to individuals that have been retained when referring to Police reports, Ihi Research prefer to use individual/person.
[20] SOP – Standard Operating Procedures.

Zealand Police, 2008, p. 18). The initial Police trial of TASERs was considered "successful" and they were introduced into the New Zealand Police force in 2009 (den Heyer, 2020, p. 356) although it wasn't until 2015 that frontline Police routinely carried them (New Zealand Police, 2015).

Claims that TASERs increase officer safety is contested in international research. A study by Ariel et al. (2019) found that London police officers visibly armed with electroshock 'TASER' weapons used force 48% more often, and were more likely to be assaulted, than those on unarmed shifts (p. 296). The researchers suggested that TASERs can trigger the 'weapons effect': a psychological phenomenon in which the sight of a weapon increases aggressive behaviour (Mackenzie et al., 2019). They concluded that, as is the case with other types of weapons, the visual cue of a TASER in Police–public interactions leads to aggression (Ariel et al., 2019, p. 295). Conversely, research conducted by AXON, the company that manufactures TASER, claims that the use of TASER increases police safety (AXON, 2023).

While the trial posited that TASERs would be introduced as a safe alternative to firearms, evidence indicates that the TASER is not used as an alternative to firearms but is a tactical option in its own right. Worldwide, the introduction of TASER and electric-shock weapons claimed to reduce the use of lethal force. This is referred to as 'stunned rather than gunned' (cited by Dymond, 2022, p. 30). However, studies have found that projectile electric-shock weapons are used when lethal force is not justified and that their use is patterned by a number of factors including ethnicity and mental health (Dymond, 2022, p. 30). Police departments do not view TASERs strictly as an alternative to deadly force, although organisations such as Amnesty International (2007 & 2015) have argued that they should only be used in this situation. Dymond (2022) noted how 'mission creep' influences the way Police deploy and use TASERS, noting that there can be a shift in how a particular technology is used, so that it drifts away from its originally intended objectives.

Evidence indicates that this pattern is apparent in New Zealand as both TASER events and police shootings have increased since the introduction of the TASER. Hendy and Walton (2022) analysed the frequency of police shootings in New Zealand compared to England and Wales. They reported New Zealand had doubled the rate of police shootings from 0.360 per million (2001–10) to 0.783 per million (2011–20). This increase has not occurred in England and Wales, and evidence suggests the New Zealand Police have shot people at proportionally higher rates than police in England and Wales (Hendy & Walton, 2022). There are of course limitations and considerations in relation to comparative studies that use population rates and comparative studies of police shootings. There is a need to take into account rates of firearms ownership as well as firearms availability, violent offending, and the number of interactions with police in which a person is posing a threat of Grievous Bodily Harm (GBH) or death.

However, concerns conveyed at the time of the New Zealand 2008 trial that certain groups, such as those with mental health issues, and Māori or Pacific Peoples would be disproportionally affected, appear to be justified. The use of electric shock weapons is not evenly dispersed throughout the population but is patterned by ethnicity, mental health, age, gender and other socio-demographic considerations, as well as likely intersectionality between them (Dymond, 2022).

There are certainly instances where police use TASERs on vulnerable people in inappropriate ways (Dymond, 2022). For example, an Australian officer has been charged with several offences including manslaughter after TASERing Clare Nowland (Beazley & Knaus, 2023). Clare was a 95-year-old grandmother who had dementia, limited mobility and who was living in a nursing home at the time. After being TASERed Clare hit her head as she fell and later died in hospital. Prosecutors allege that the police officer's actions were 'grossly disproportionate' and 'excessive' after the 95-year-old grandmother died after the event (Beazley & Knaus, 2023, para 1). The officer

accused of TASERing her was reported to say 'stop just ... Na bugger it' before deploying his weapon" (Beazley & Knaus, 2023, para 5). While the majority of TASER discharges meet policy/procedural guidelines, it is important to note that inappropriate police use of TASER on vulnerable people has been reported internationally and in New Zealand (IPCA, 2017; 2020a; 2020b; 2023).

## TASER use and impact

Despite their widespread use, empirical research on the use and impact of TASERs is limited (den Heyer, 2020; Eisler et al., 2017; Neuscheler & Freidlin, 2015). A small number of evaluations have been conducted on the use of TASERs within Aotearoa (den Heyer, 2020; O'Brien et al., 2011; New Zealand Police, 2008). Findings from an evaluation by New Zealand Police (2008) indicated the majority (95%) of subjects where a TASER was presented were male, aged between 20 and 39 years (71%). Five subjects were aged between 14 and 16 years old. NZ European/Pākehā subjects comprised 33% of all subjects, Māori comprised 32%, and Pacific Peoples 26% (New Zealand Police, 2008, p. 14). Family violence events were the most common (39%) event type at which TASERs were deployed. Alcohol and drug use was a factor in 51% of events where a TASER was deployed (New Zealand Police, 2008). These findings are concerning given evidence from overseas studies on the use of TASERs.

Research undertaken in the US by the Stanford Criminal Justice Centre at the Stanford Law School has warned about the impact of TASERs on vulnerable communities, including those in mental distress and under the influence of drugs and alcohol (Neuscheler & Freidlin, 2015). These authors reviewed 150 studies on the effects of CEDs/TASERs. Neuscheler and Freidlin (2015) note the "general consensus" that they "are safe for use on healthy individuals who are not under the influence of drugs or alcohol, are not pregnant, and do not suffer from mental illness—so long as the individual receives only a standard five-second shock to an approved area of the body" (p. 5). However, they caution the generalisability of such findings, given that most research subjects in medical studies are healthy male police officers (ibid). Evidence demonstrates that many or most of the general public subjected to TASERs in the field "have one or more of the risk factors ... i.e., they are under the influence of alcohol or illicit drugs or have physical or psychiatric comorbidities" (ibid). Neuscheler and Freidlin (2015) conclude by stating the benefits of the use of TASERs can be emphasised, whilst their impact on vulnerable populations is not clear.

In another investigation, a team from Reuters in the US investigated 1,005 events in which people died after being stunned by a TASER deployed by police (Eisler et al., 2017). Autopsy findings were obtained for 712 of the 1,005 deaths. More than one-fifth (153) of the autopsy reports identified the use of TASERs by police as the cause or contributor to a person's death. The authors warn, "Behind the fatalities is a sobering reality: Many who die are among society's vulnerable – unarmed, in psychological distress and seeking help" (Eisler et al., 2017, para 1).

Research within Aotearoa demonstrates that certain groups are disproportionately impacted. There are increasing concerns about the risk of TASERs used by Police, particularly their use on adults experiencing mental distress (O'Brien et al., 2011), those affected by drugs and alcohol, and that Māori and Pacific Peoples communities are over-represented (Independent Office for Police Conduct, 2021; den Heyer, 2020; New Zealand Police, 2018; Eisler et al., 2017; Neuscheler & Freidlin, 2015).

O'Brien et al. (2011) investigated the use of TASERs by the New Zealand Police via the Police Tactical Options Database (TOD) during the introduction of TASERs as part of the one-year pilot scheme (2006-2007). The purpose was to identify TASER use involving people in mental health distress and comparing these events with those that involved criminal arrest. Results highlighted TASERs were deployed on 141 people within 124 events and discharged 19 times. Thirty people were in mental health distress or emergencies.

TASERs were more than twice as likely to be discharged in these situations (8 of 30; 27%) rather than in criminal arrests (11 of 111; 10%). O'Brien et al. (2011) also found two TASER events being used by police responding to inpatient mental health services, and another two events involving mental health community residential accommodation. They cautioned that the use of TASERs by police would disproportionately impact on people with mental illness and guidelines were urgently needed to manage their use on people experiencing mental distress (O'Brien et al., 2011).

In 2018, New Zealand Police reported that "both Māori and Pacific Peoples were more likely to experience a TASER deployment than subjects of other ethnicities; this pattern holds when considering TASER deployment relative to offender proceedings and relative to overall population numbers. The TASER show to discharge ratio also varied by subject ethnicity; the show to discharge ratio was 4:1 for both Māori and Pacific Peoples, but 5:1 for European subjects" (New Zealand Police, 2018; p. 4).

There is some variability however, particularly for the years covering the COVID-19 and Omicron pandemics. According to Police data published in 2022, the TASER discharge rate was lower for Māori subjects (1 per 5 TASER TOR events) than European subjects (1 per 4 TASER TOR events), but highest for Pacific Peoples (1 per 3 TOR events) (New Zealand Police, 2022c).

Independent research conducted by den Heyer (2020) investigated the use and effectiveness of the TASERs by the New Zealand Police for the period 2010 to 2017. Results highlighted that the use of TASERs increased over time and that Māori are disproportionately impacted. This is explained in more detail in the following section.

## Analysis of Police Tactical Options Reports (TOR) annual reports 2016-2022

Understanding TASER deployment is important yet complex; and Police annual reporting of TASER analysis has changed over time. A review of Police annual reports from 2016-2021 demonstrates that Police have increased their data analysis, accounting for differences in ethnicity, gender and Police district over these years. Contributing to the complexity of interpreting TASER deployment is that it can include TASER presentation, laser paint, contact stun and discharge with probes, as well as unintentional discharge (New Zealand Police, 2020, p. 23). According to Police analysis, the rate of TASER deployments by Police has increased.

*"... although use of TASER as a tactical option has been relatively stable over the last five years, there was an increase in 2021. TASER use increased from 1,367 deployments in 2020 to 1,629 deployments in 2021" (p. 88).*

Analysis of TASER data as reported by Police shows interesting variations. For example, in 2016, a TASER was used[21] 1,290 times, accounting for 26% of TOR events when a tactical option[22] was used (New Zealand Police, 2016, p. 2). Analysis of TASER events by location highlighted the majority occurred in the Lower North Island (607); the Upper North Island accounted for 426 events, whilst the South Island accounted for 257 events (New Zealand Police, 2016, p. 2). The 2016 analysis of TASER data indicated 27% of subjects were Pacific Peoples, 26% were Māori and 24% were European (New Zealand Police, 2016, p. 7). Subjects perceived to be impaired by mental distress were more likely to have TASERs deployed at them (31%) than subjects with no perceived mental distress (24%). In 2016, Police reported that "European[23] subjects were the most likely to be perceived as being impaired by

[21] The terms (used, deployed, events, subjects) in this report mirror the terms used in Police reports. Some terms change over time.
[22] Tactical options include handcuffs/restraints, empty hand tactics (physical force), OC spray (pepper spray), baton, TASER, dogs, and firearms (New Zealand Police, 2023a).
[23] Perception of mental health is often a subjective judgement made by attending police officers.

mental distress (30%) whereas Pacific Peoples and Māori were the least likely to be perceived as being affected by mental distress (11% and 15% respectively)" (New Zealand Police, 2016, p. 9).

In 2017, Police data analysis indicated TASER was deployed (shown or discharged) at 26% of TOR events (New Zealand Police, 2017, p. 1). Police also refined their analysis by region. The region with the highest number of TASER events was the Bay of Plenty (169), followed by Central (141) and Wellington (132). The area with the lowest number was Northland (47). TOR events by subject age showed the majority were aged between 21-30. Police reported the proportion (%) of TASER option used by subject ethnicity indicating similar results for Māori (28%) and Pacific Peoples (28%), followed by European (23%). Mental health events (1M) and suicide attempts (1X) were separately reported and made up 222 (1M) and 227 (1X) of 4,536 TOR events.

In 2018, there were 1075 TOR events with TASER deployment (New Zealand Police, 2018). This was a decrease of 114 (9.5%) from the 1189 TOR events with TASER deployment in 2017. Across the 1075 TASER TOR events, the highest level of deployment was discharge (20%), either with probes (19%) or contact stun (<1%)" (New Zealand Police, 2018, p. 5).

Both handcuff/restraints and TASER were used more often at 1M (mental illness) and 1X (suicide attempt) TOR events than at TOR events overall (New Zealand Police, 2018, p. 6). As noted in this report, "these event types" do not "constitute a formal diagnosis of the subject's mental state" (p. 6). Subjects involved in TOR events were more likely to be Māori than any other ethnicity, "accounting for over half of all TOR events" (p. 7). Pacific Peoples were also overrepresented at TOR events. Both Māori and Pacific Peoples were more likely to experience a TASER deployment than people from other ethnicities.

In 2019, there were 1267 TASER (TOR) events (New Zealand Police, 2019). This was an increase from 1075 in 2018. Bay of Plenty and Canterbury had the highest TOR events (discharge with probes) (New Zealand Police, 2019, p. 22). Police reported Māori males were over-represented in use-of-force events, including total TASER events (New Zealand Police, 2019). Māori accounted for 720 of the 1267 TASER TOR events. "Subjects aged 21-30 years accounted for the largest proportion of TOR events (38% of all TORs) and 72% of TOR events involved subjects aged between 17 and 40 years old (48% of these TOR events involved Māori males)" (New Zealand Police, 2019, p. 46).

Police data estimates "... one in 10 TOR events occurred at either a 1M mental illness event or a 1X suicide/suicide attempt, and at approximately one in five TOR events either mental illness or suicidal behaviour (or both) were flagged as relevant factors" (ibid, p. 34). However, these event types as reported by Police do *"not constitute a formal diagnosis of the subject's mental state" (p. 34)*. As Police have no expertise in 'formal diagnosis', they may perceive someone as experiencing mental illness, whereas the person may be neuro-diverse and/or have issues with communication.

In 2019, TASER was used at substantially higher rates at 1X TOR events. Subjects at 1M and 1X TOR events were much more likely to be armed with cutting/stabbing weapons (29% of all 1M/1X TORs) than other subjects (7% of all other TORs), another reason for officers to intervene whilst maintaining physical distance (New Zealand Police, 2019, p. 37).

In 2020, Police reported that "Laser painting was the most common TASER deployment method – 65% of TASER deployment" (New Zealand Police, 2020, p. 8). Twenty percent of TASER deployments involved a discharge, whilst eighty percent involved a TASER show. This report emphasised the over-representation of Māori males (aged 17-40 years old) noting, "Over half of all TASER deployments were directed at Māori subjects: the majority of these (66%) were males aged between 17-40 years" (New Zealand Police, 2020, p. 51). Māori subjects were involved in 738/1331 total TASER TOR events. European subjects were involved in 400/1331 total TASER TOR events. Whilst Pacific Peoples were involved

in 156/1331 total TASER TOR events. The policing district Counties Manukau had the largest number of TASER uses (156/1356 total uses) with the Canterbury district coming close behind (147/1356 total uses). The Northland policing district had the least number of total TASER uses (51/1356 total uses) (New Zealand Police, 2020, p. 25). In this year, Police also noted an increase "in the number of 1M and 1X events Police attended" (p. 26). This was a 9% increase, up from 33,443 in 2019 to 36,464 in 2020. TASER accounted for 29% of 1M events and 26% of 1X events (New Zealand Police, 2020).

Finally, in 2021, New Zealand Police reported an increase in TASER use "from 1,367 deployments in 2020 to 1,629 deployments in 2021" (p. 88). This report emphasised that TASER show is an effective tactical option as "on average, for every TOR event that involved a TASER discharge there were four that involved only a TASER show, suggesting that TASER show is a very effective tactical option' (New Zealand Police, 2021, p. 88). Analysis of Total TOR events with TASER events as reported by Police indicate Māori experienced the highest mode of deployment (914/1599 total TASER events, a 2:1 ratio), European were second with 459/1599 events (3:1 ratio) and Pacific Peoples were third (173/1599 total TASER events, a 9:1 ratio) (p. 115). This meant over half of all TASER deployments in 2021 were directed at Māori subjects, and "the majority of these (70%) were males aged 17–40 years (p. 116). Pacific Peoples were also over-represented in TASER events compared to population demographics. Interestingly, the 2021 report suggests *"that the disproportionally high number of TASER TOR events for Māori and Pacific subjects is due to the overall high numbers of TOR events for these subjects, not due to Police using TASER differently for subjects of different ethnicities" (p. 116).*

Police also reported tactical option use at 1M and 1X events (New Zealand Police, 2021, p. 98), reporting the percentage of TOR events where TASER was used (32% for 1M events and 38% for 1X events).

## Unjustified use of TASERs and their deployment on vulnerable populations

There is evidence of unjustified use of TASERs on people experiencing mental distress and those under the influence of drugs and alcohol within Aotearoa, New Zealand, as determined by the Independent Police Conduct Authority (IPCA). For example, the IPCA found unjustified use of a TASER in the Tauranga District Court cells (IPCA, 21 March, 2023). In this situation a TASER was fired three times at a detainee in a Police cell, while other officers were in the cell at the time. The detainee suffered from mental illness and was being remanded in custody until he could be seen by the Crisis Assessment Team. The IPCA ruled the use of TASER was unjustified as the detainee did not genuinely pose a serious or imminent threat, and that use of the TASER was for compliance purposes.

In 2019, an intoxicated member of the public was arrested following a phone call from a hospital emergency department. The man then attempted to strangle himself in a Police cell, and an officer then TASERed him. The IPCA decided that the use of the TASER was unjustified. With multiple officers present, it was possible to take different courses of action before using the TASER, such as stepping outside of the cell. The IPCA also found that the officer had breached policy by carrying a TASER into the custody area (IPCA, 16 July 2020).

Other events included:

- The excessive and unjustified use of a TASER on a woman in a SkyCity carpark (IPCA, 6 October 2020b). In this event, the officer was charged with assault.

- In 2017, the IPCA ruled unjustified use of a TASER following the arrest of a mentally unwell man in Manukau. Police policy clearly states that TASERs can only be used on a person who is assaultive. As the man was being held down by two officers and had his back turned to the sergeant who fired the TASER, his behaviour had not

met that threshold. The sergeant's use of the TASER "breached Police policy" and was "excessive and unjustified," (IPCA, 9th March, 2017, para 9).

- There are other rulings of unjustified use of TASERs as determined by the IPCA (for example 14 March 2023; 12 September 2019; 18 July 2017; 13 April 2017).

It is important to note that some of these events only came to light because someone had complained to the IPCA, and an investigation was then undertaken. There may be many more events of unjustified and excessive use of TASERs on vulnerable communities within Aotearoa and there are calls for further research (den Heyer, 2020; O'Brien et al., 2011).

Interestingly, both the 2020 and 2021 Police reports emphasise complex interactions and "a multiple of factors" (New Zealand Police, 2021, p. 119; New Zealand Police, 2020, p. 55) requiring "deeper thinking" when considering this data (New Zealand Police, 2021, p. 119).

*"Examining ethnicity in isolation, and especially attributing outcomes solely to ethnicity misses the complexity of the underlying causes. In addition, focusing on ethnicity to the exclusion of other relevant factors is a disservice to the cohort most likely to be on the receiving end of a Police use of force. Resolving disproportionate representation of Māori in TOR events is unlikely to be addressed without also addressing and resolving the disproportionate representation of males aged 17-40. The challenge for NZ Police and the public is to expand and deepen current debate and investigations to ensure that strategies and resolutions are comprehensive and will help improve the future for the people they are intended for" (New Zealand Police, 2021, p. 55).*

## Summary

TASERs are viewed as an important, non-lethal tactical option for the New Zealand Police to ensure safety for all. However, international research indicates that disproportionate use on vulnerable communities is concerning (Eisler et al., 2017; Neuscheler & Freidlin, 2015). New Zealand Police rely on public confidence and trust in their actions as this underpins policing by consent. However, policing by consent is diminished if the Police are unjustified in their use of force and if there is evidence of discrimination and bias.

Analysis of Police annual reports shows an increase in TASER deployment and use over time, and that Pacific Peoples and particularly Māori males are consistently over-represented compared to their percentage of the overall population. Mental health issues (1M and 1X) are emphasised in the data. The deployment of TASER by Police responding to mental health callouts has almost doubled since 2017.

Ihi Research has conducted independent research on the use of TASERs, between April and August 2023 and focused on all TASER and TOR data reported between the period of 1 July 2022 and 31 December 2022. The purpose of this evidence report is to contribute to 'deeper thinking' regarding equity issues and the complex interaction of race, gender, disability and socio-economic status on policing in New Zealand.

# Methodology

The sources of feedback analysed for this report are:

- TOR annual reports from 2016 – 2021.
- A review of literature regarding the use of TASER internationally and in Aotearoa, New Zealand.
- All TOR events reported in the research period (n=2719).
- All TASER events reported in the research period (n=786).
- All TASER deployments reported in the research period (n=135).

The data was gathered in June 2023 and drew on all reported events for the six-month research period, 1 July 2022 to 31 December 2022.

Data was downloaded to an Excel sheet, and all identifying features (for example names, places, positions) were removed. Data was not removed from the Police computer until it was redacted, anonymised, and prepared for this final report.

## Analysis of all Use of Force events over the six-month period.

All Tactical Options Report (TOR) data between the period of 1 July 2022, and 31 December 31, 2022, was supplied by the Police Evidence Based Policing Centre to Ihi Research. This data was anonymised and analysed using Power BI to demonstrate patterns across all TOR data.

## Analysis of TASER events

All TASER data, regardless of presentation/ discharge was analysed during this time. There are a variety of ways that a TASER can be used. The presentation of a TASER is often enough to de-escalate a situation. At the time the TASER is drawn and turned on, it signals the video camera to begin recording which starts after a 2-second delay. If the TASER is fired the TASER produces a pulse log to demonstrate the contact made (or not made) with the individual. Table 1 presents the ways in which the TASER can be used.

| Term | TASER Use | Description | Discharge/ non-discharge |
|---|---|---|---|
| **To 'Prepare'** | Holster | TASER is in the holster | Non-discharge |
| | Drawn, and in the ready position | TASER is drawn from holster in circumstances where any person could reasonably perceive the action as a use of force. | |
| **To 'Show'** | Aimed | TASER is deliberately aimed at a person. | Non-discharge |
| | Laser Painted | TASER is pointed at person using the laser sight red dot. | |
| | Arced | TASER is sparked to demonstrate the electrical discharge without aiming or firing it. | |
| **To 'Use'** | Drive stun | TASER is discharged (without cartridge) in direct contact with the body, rather than fired from a distance. No probes are fired, and this causes pain but does not deliver an incapacitating effect. | Discharge |
| | Angle Drive stun | TASER is discharged and one or both probes connect with a person. TASER is then held against a different area of the person's body to deliver an incapacitating effect. | |
| | Fired | TASER is fired so that the probes are discharged at a person through which an electrical discharge is transmitted delivering an incapacitating effect. | |

Table 1: Ways in which a TASER can be used.

The purpose of the analysis was to look for patterns in decision-making/Police interactions around the use of force. The research focused on equity groups as noted in the UPD literature review (Te Atawhai o Te Ao, 2021) such as ethnicity, gender, location, those who may be vulnerable, including youth, and those experiencing mental health crisis.

All non-discharge events (n=651) were analysed:

- Analysis of demographic data.
- Analysis of random report narratives from a variety of call-out codes.
- Analysis of random selection of video.

All TASER discharge event reports over the six-month period (n=135) were also analysed including:

- Analysis of demographic data.
- Analysis of report narrative.
- Analysis of video record from the TASER.
- Analysis of the TASER pulse log.

The purpose of the analysis (comparing non-firing and discharge events) was to investigate

patterns in decision-making/Police interactions around the use of force, particularly with Māori and marginalised populations who may be vulnerable, youth/aged and those in a mental health crisis. Video footage, reports and pulse logs were used where possible to triangulate findings.

## Analysis Procedures

Individual case sheets were created for every event where a TASER was fired. Initially, two Ihi researchers viewed videos to establish a shared coding framework, including for recording inconsistencies and/or equity issues. One Ihi researcher viewed all TASER discharge videos (n=135) and a selection of Laser Painting TASER videos (n=25). The researcher reviewed narrative reporting, noting any inconsistencies in records or equity issues that arose during the video or narrative report. All fields of the TOR reports were included in the analysis. Events identified as raising equity issues were viewed by at least one other researcher and discussed.

A number of reports were noted as raising issues of equity, for example:

- Youth under the age of 17.
- Individuals presenting with a mental health crisis.
- A disproportionate number of Māori and Pacific males TASERed in comparison to New Zealand ethnicity population data.
- A disproportionate number of men.

New Zealand population data from Stats NZ was acquired for comparison.

A number of reports were identified as presenting similar circumstances (to firing events) but resulted in non-firing. These examples were also analysed to identify common themes that resulted in successful de-escalation.

### TASER camera observation and TOR narratives

Themes were identified from both TASER camera footage and TOR narratives to identify factors that influenced decision-making. Inconsistencies between camera footage and TOR narratives were also noted.

### Sensemaking

A sensemaking meeting with members of the New Zealand Police, including the Evidence Based Policing Centre, and the Operational Advisory Group (OAG) to the UPD project was held to discuss influences on Police decision-making during TOR events. Examples of analysed TASER events were shared and discussed.

## Limitations

There are limitations in the research approach which need to be acknowledged.

There are challenges analysing data by using the current Police coding of ethnicity data in the database. Generally only one ethnicity can be applied to an individual. In addition, there are only two gender categories, male and female[24], and no disability data is collected by the Police. Officers may assign only one event type to an event.

There may be issues of reliability in the reporting data from Police. There may be times when a TASER is presented, or force applied in an interaction, but not reported, which is consistent with international literature on reporting.

Due to differences in interpretation of language and perspective on data analysis, such as patterns of behaviour in data[25] our findings numbers differ from those of the Police Operations Group. This report draws on both quantitative and qualitative data from six months of TOR reports. The analysis is interpretive, drawing conclusions

[24] Gender can also be recorded as unknown, but this is not a gender category.
[25] Ihi Research analysed data by event rather than TASER discharge in TASER discharges as we viewed a 'case' as an event. In all other Tactics and TASER non-discharge we counted TOR reports of the incident as we did not have the capacity to cross check this data set to event level.

from patterns in both qualitative and quantitative data analysis.

Event reports are from the perspective of the police officer. When force is applied in an interaction, officers are required to report and 'justify' their use of force, therefore reporting excludes the perspective of the individual on which force is applied.

In addition, the quality of camera data can be compromised due to the environment, situation, and time between when the TASER is drawn and fired. In addition the scope of the camera limits the completeness of the picture it provides of the incident, as not everything is captured in the footage. Therefore, camera footage analysis cannot be reported with certainty, by percentage or ratio.

Analysis of camera footage was from the perspective of the Ihi researchers with a background in social work and psychology.

Ihi researchers were not able to access all camera footage and pulse records as there are access and data storage issues, including faults in cameras (n=5 videos; n=59 pulse logs).

We chose not to use 'gangs' as a variable of analysis. While it is a category in the TOR, researchers noted inconsistencies in how this was applied. For example, some individuals were not noted as being in a gang but in the camera footage were wearing patches. The inconsistencies in recording appeared to be significant enough to discount an analysis of TASER use and gang membership.

In some instances, there are inconsistencies in reporting data, camera footage and pulse log data. While pulse log data can indicate a misfire, or an accidental firing, there were instances involving multiple firings on individuals. Unfortunately, the unavailability of sufficient pulse log data made it difficult to determine any ethnic differences. However, individual cases of multiple firings indicate some inconsistencies between the TOR narrative report, the camera footage, and the pulse log. Police report that it is not uncommon for staff to inaccurately report how many probes were fired or cycles the device did, however they contend these are recorded accurately when they are reviewed at a National level (personal coms). In most discharge cases the TASER was not fired multiple times (unless it had not made contact), however in one assaultive event a TASER was arced[26] 31 times across five events on one individual.

[26] Arcing is different to using the trigger to fire probes or re-energise fired probes in that to activate the Arc function on a TASER an operator has to press and hold the Arc button on the side of the TASER (different from the trigger). Arcing generates a spark/current across both cartridge bays either re-energising fired probes or in the event probes haven't been fired the open spark across the front of the bays or cartridge when applied directly to a subject will create pain (personal coms).

# Findings

**The findings from this section are based on the analysis of Tactical Options Reports (TOR) reported by the New Zealand Police between 1 July to 31 December 2022. There were 3257 reports on 2719 tactical options (or Use of Force) events during this period. There were 2805 individuals involved in the 2719 Use of Force events.**

Reporting of events is complex as there can be more than one person per event. When this occurs, the total number of events adds up to more than 2719. For example, when looking at ethnicity distribution across events, if there are two people, one European and one Asian at a single event, both people will be counted individually, therefore when all ethnicity numbers are totalled it will be higher than 2719.

Communication as a tactic was omitted from the data analysis as it is the first tactic used by Police when attending an event and is likely to be reported on all reports. Often, percentages equal more than 100 due to more than one tactic being used at a single event. For example, in the 135 TASER discharge events, 105 reported other tactics were also used across those events.

Figure 2 demonstrates the use of all tactics. Event numbers overall decrease as the level of tactical response increases, which aligns with the aim of the Police Tactical Options Framework[27].

[27] However, there are tactical options which are limited to certain workgroups and so they have lesser numbers while still being used with a lower PCA e.g., Dog.

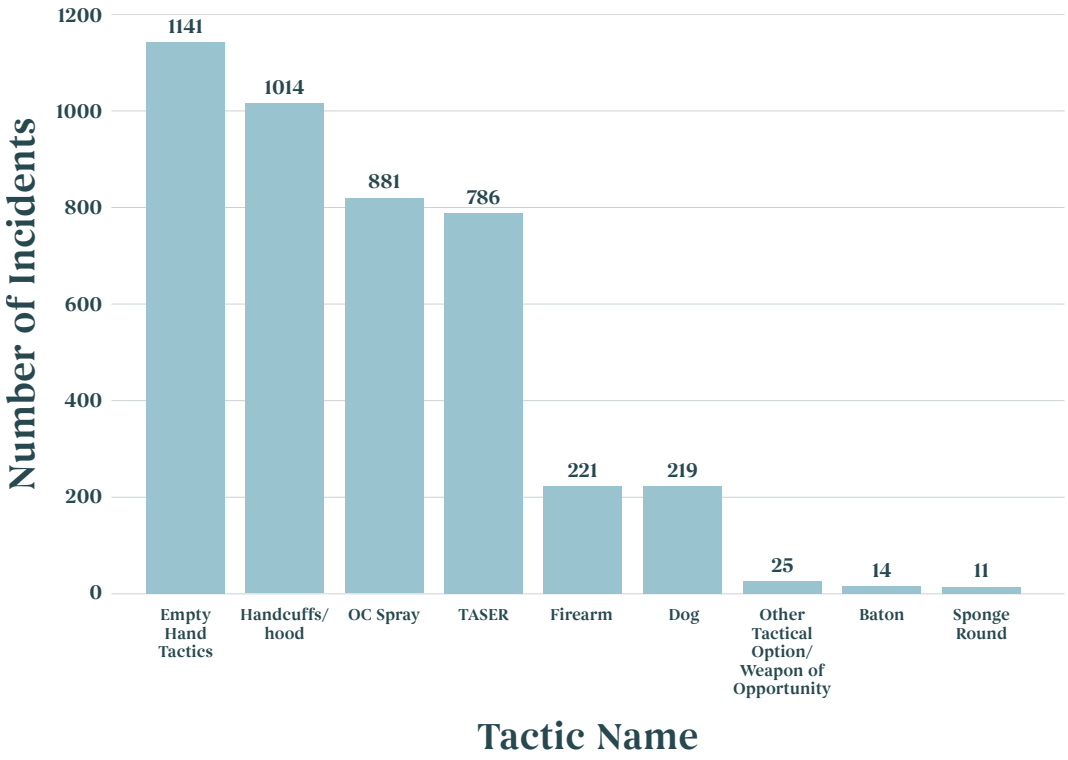


Figure 2: Tactic use across the research period July to December 2022 by event.

While TASER tactics account for 27% of all Tactical Options Reports this includes all types of TASER use, including laser painting, arcing and discharging. In 74% of TASER events laser painting was utilised. This TASER tactic has no physical impact on the individual and is most often employed as a deterrent to de-escalate behaviour (New Zealand Police, 2021). It is not until the TASER is discharged that physical force is experienced by the individual. A more thorough breakdown of TASER discharges is in the next section.

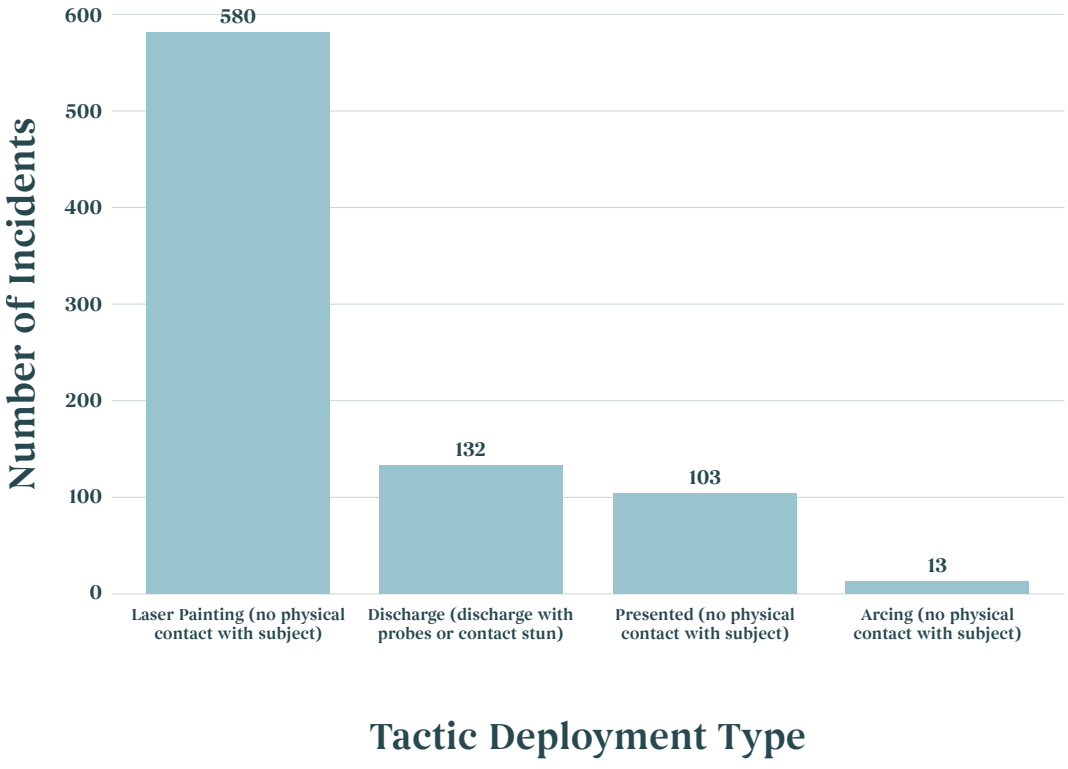


Figure 3: Number of events per TASER tactic deployment type.

As part of Tactical Options Reporting, Police report the type of behaviour they see displayed at an event. Police often report more than one behaviour, for example, someone may be aggressive, threaten a member of the public and then assault an officer in one event. Table 2 demonstrates the aggressive and physically assaultive behaviours reported across all TOR Events and TASER Tactics and TASER discharge events[28].

| Behaviours | All Tactical Options | All TASER Tactics | TASER Discharges |
|---|---|---|---|
| **Aggressive behaviour** | 40% | 42% | 37% |
| **Physically assault non-Police** | 10% | 10% | 8% |
| **Physically assault officer** | 16% | 12% | 24% |
| **Threaten non-Police** | 13% | 16% | 11% |
| **Threaten Police** | 21% | 20% | 21% |

Table 2: Percentages of behaviours noted across all TOR options, TASER tactics and TASER discharge.

The data indicates that TASER discharge events had higher rates of officer assault than any other category. The TORs also indicate if weapons were present at the event. Table 3 shows rates in which weapons were present at tactical options events. In nearly one-third of events where TASER tactics were deployed, weapons were present. In 39 events, Police responded to either threatening to use (n=23) or using a weapon (n=16) by firing a TASER. In over half (62.5%) of these events (which involved use of weapons and TASER firing) the individuals were experiencing a mental health episode/crisis.

| Behaviours | All Tactical Options | All TASER Tactics | TASER Discharges |
|---|---|---|---|
| **In possession of a weapon** | 24% | 31% | 29% |
| **Used a weapon** | 6% | 7% | 12% |

Table 3: Possession of weapons at TOR, TASER tactic and TASER discharges.

In the most recent 2021 report, Police reported that individuals at 1X TOR events were more likely to be armed with cutting/stabbing weapons than subjects at 1M or other TOR events. The rate of TASER deployment in these circumstances (1X TOR events where the subject was armed with a cutting/stabbing weapon) was similar across years, with TASER used at 82% of these events in 2021 (New Zealand Police, 2023, p.100).

## Tactical communication

As noted earlier, 'presence and tactical communication' is the first step in the Tactical Options Framework. Tactical communication is the Police's preferred option for resolving events. The framework recommends to, *"Use tactical communication throughout an event, along or in conjunction with any other tactical option used"* (see Appendix 1).

Analysis of reports and video footage indicates that warnings are given to the individual that the TASER will be fired in approximately 75% of TASER discharge events. Of the 25% that didn't receive a warning, 90% reported there was not enough time, 7% stated that alerting the subject would put the officer at risk and 3.2% were classed as 'other'.

[28] Behaviours itemised in the table demonstrate the percentage of all behaviours in the report – as one report can have several behaviours noted.

Video observational analysis of TASER firings and non-firings, demonstrates the importance of skilled tactical communication. Observations indicate effective de-escalation by police officers in potentially volatile situations leads to a reduced need for using TASERs or other forms of force. A number of key factors contributing to successful de-escalation were noted by researchers:

- **Officers' calm demeanour:** maintaining composure in tense situations was vital in preventing escalation; particularly using a calm, level voice.
- **Effective communication and tone:** clear respectful communication defused tensions and encouraged cooperation.
- **Engagement at the person's level:** empathy and understanding helped establish rapport and cooperation. Acknowledging the person's situation/ challenges in a respectful, empathetic way de-escalated potentially harmful situations.
- **Appropriate questioning:** skilful questioning was used to gather information (i.e., regarding the environment, the event, a potential weapon) which increased the officer's ability to choose the right tactic.
- **Relational approach:** the officer quickly built a rapport with the person involved through active listening, regardless of their emotional/mental state. Genuine concern for the individual appeared to be crucial.
- **Respecting personal space:** acknowledging and respecting the need for personal space appeared to prevent individuals from feeling overwhelmed and threatened. In some cases, officers stated, "I'm going to step back, I'm going to give you some space."
- **Awareness of power dynamics:** maintaining a balanced power dynamic[29] during interaction appeared to contribute to a more cooperative response.
- **Adequate and appropriate tactic delivery:** using suitable tactics; scaled responses from the start of engagement, rather than rushing the process.

The absence of TASER use in the situations analysed through TASER camera footage showed de-escalation techniques effectively being applied. Video evidence showed these situations were often similar in nature to those where a TASER was fired, however, the skill of the officer's tactical communication de-escalated tense and sometimes chaotic situations.

### Example[30] TASER show event

Individual is a male 30-40 years, at a 1M event.

The female officer has a calm, quiet tone and is not aggressive. She says,

*"You see those dots on you, it's a TASER, you need to settle down and not square up. It doesn't need to be like this, we can have a nice conversation, and it doesn't need to be like this, ok? What's going on for you at the moment? I can tell that you're pretty upset."*

He responds in an upset tone, *"My wife made me want to kill myself."*

She says, *"Ok are you prepared to just bring it down a notch so we can have a conversation about it?"*

Male complies. (Camera observation)

[29] Voice, volume, tone and cadence, level of interaction with person – omission of dominance language.
[30] Examples are chosen from TOR narratives to illustrate the point, they are anonymised, any identifying details have been removed. They are written using the police officer narrative and camera footage to ensure the narrative is as close as possible to the viewed event.

In most instances where a TASER had been drawn and was recording an event, officers skilfully achieved positive outcomes without discharging the TASER.

In contrast, some video footage from TASER discharges noted some concerning police officer communication, behaviours and interactions that appeared to escalate situations.

- **Mocking and condescending language:** officers displayed disrespectful and mocking behaviour, escalating tensions, and hindering cooperation.
- **Abrupt and aggressive engagement:** some officers exhibited an aggressive approach, (including yelling and swearing) intensifying conflicts and risking unnecessary use of force.
- **Multiple officers issuing demands:** simultaneous and conflicting demands from multiple officers confused individuals, making it challenging to comply with commands.
- **Challenges with dog presence and use:** the presence of a barking dog and threats of TASER complicated situations; having the dogs present did not appear to make any of the individuals comply. Rather it had the opposite effect, appearing to overwhelm the individual and escalate fear. For example, prior to being TASERed, an individual was being commanded to stop moving, but the dog was attached to his body.
- **Unprofessional language/behaviour:** officers used language that would be considered inappropriate, undermining professionalism, and fostering defiance instead of de-escalation. In a few observed cases, officers yahooed and cheered after TASERing an individual.

The analysis confirmed that communication is the key tactical tool for officers even in potentially threatening situations, it not only reduces the need for force, but also keeps officers and the public safe.

## TASER events between 1 July 2022 and 31 December 2022

TASERs were drawn at 786 TOR events (27.1% of all TOR events) between 1 July 2023 and 31 December 2023. Within the 786 events, the TASER was discharged or fired 135 times. Two TASER discharge events involved two individuals being TASERed at the same event, and one person was TASERed twice at one event. Table 4 demonstrates the ways in which the TASER was used during the 786 events. Consistent with the Police TOR report, laser painting was the most common TASER deployment method.

| Taser Deployment Type | Number of Events | Number of Reports |
|---|---|---|
| **Laser Painting** | 580 | 624 |
| **Discharged** | 132 | 153 |
| **Presented** | 103 | 105 |
| **Arcing** | 13 | 13 |
| **Total** | **786** | **883** |

Table 4: TASER deployment type by event and report.

** *Note some events have multiple categories e.g., Someone was laser painted then the TASER was discharged. In addition, one event can have multiple reports if there is more than one attending officer. Consequently the sum of the events column does not equal the number of reports.*

The data was analysed by district and mode of deployment as indicated in Figure 4. There was variation in shows and discharges across districts. Some districts, like Canterbury, had higher levels of shows, but lower levels of discharge; other regions such as Eastern had higher rates of discharge.

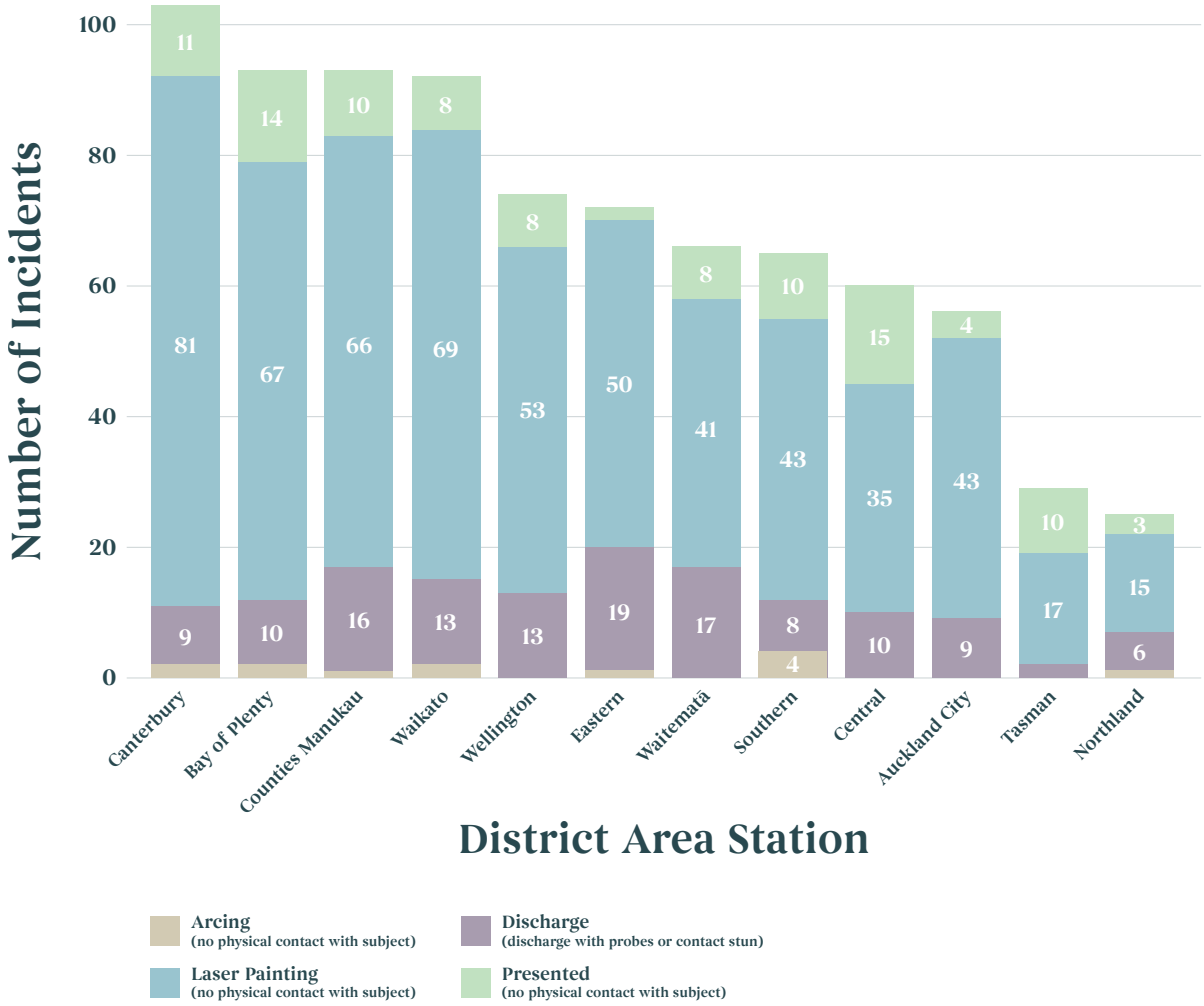


Figure 4: TASER deployment by district and highest mode of deployment (July - Dec 2022).

The following section presents an analysis of equity themes in the data.

# 3.1 TOR/TASER and ethnicity

**Māori and Pacific People are disproportionally over-represented in the TASER events analysed for this report. As noted in the previous section, annual Tactical Options reports by Police note that over-representation of Māori and Pacific Peoples in TASER data has been evident since they were introduced.**

Māori make up 16.5% of the NZ population and are involved in 53.62% of TOR events, 54.96% of TASER events, and 42.22% of TASER discharge events. Pacific Peoples make up 8.1%[31] of the New Zealand population. However, they make up 9.37% of all TOR events, 10.18% of all TASER tactic events and 19.25% of TASER discharge events. The NZ European population is 70% of the total population, and they only make up 30.41% of TOR events, 28.37% of TASER events, and 29.62% of TASER discharge events.

Asian people are under-represented in TOR events when compared with the NZ population. They comprise 15.1% of the population but are involved in less than 1.5% of all TOR events, TASER events and TASER discharge events. The representation on MELAA[32], Other and Unknown ethnicities, is relative to their population, all TOR events, TASER events and TASER discharge events sit around the same percentage as their NZ populations percentage.

Figure 5 demonstrates the percentage of the population with the number of tactical events, demonstrating that Māori, in particular, make up only 16.5% of the population but were involved in over 53% of all tactical options/use of force reports.

[31] 2018 Census data.
[32] MELAA - Middle Eastern/Latin American/African.

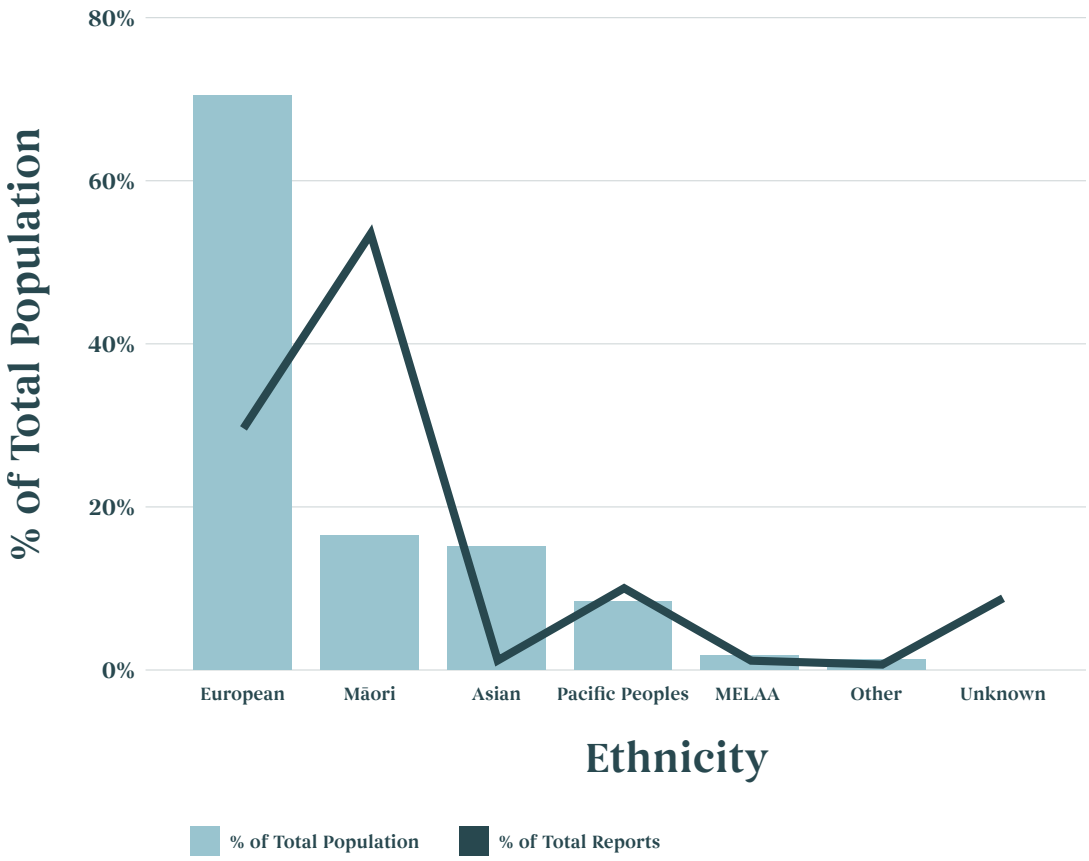


Figure 5: Ethnicity by event and total population.

Māori are more likely than any other ethnicity to experience a 'tactical option' in interactions with Police. They are more likely to have a TASER shown and discharged in their interactions with Police.

The following table demonstrates the number of TOR to TASER shows and discharges in the research period.

| Ethnicity | Total Number of TOR Incidents | Number of TASER Shows | Number of TASER Discharges |
|---|---|---|---|
| **Māori** | 1458 | 432 | 57 |
| **European** | 827 | 223 | 40 |
| **Pacific Peoples** | 255 | 82 | 26 |
| **MELAA** | 31 | 12 | 2 |
| **Unknown** | 238 | 48 | 8 |
| **Asian** | 32 | 7 | 2 |
| **Other** | 12 | 1 | |

Table 5: Number of TOR incidents, TASER shows, TASER discharge.

This data can be converted to a ratio by ethnicity to determine if there are any differences, particularly in shows to discharge.

Table 6 demonstrates that for every 3.4 TOR incidents for Māori, one will be a TASER tactic, and for every 7.6 TASER shows, one will be a discharge. The data demonstrates that Māori, Pacific Peoples and MELAA are more likely to have TASER drawn during a TOR incident.

Proportionally Māori are less likely to have the TASER discharged. However, this is due to the number of TASER shows being much higher than any other ethnicities. Māori still make up 51% of all TASER discharges. A concerning ratio is for Pacific Peoples, as illustrated in Table 6, one in every 3.1 TOR tactic is a TASER show, and for every 3.2 TASER shows, one will be a discharge.

| Ethnicity | All TOR Tactics/TASER Tactic Show | TASER Show to Discharge Ratio |
|---|---|---|
| **Māori** | 3.4 : 1 | 7.6 : 1 |
| **European** | 3.7 : 1 | 5.6 : 1 |
| **Pacific Peoples** | 3.1 : 1 | 3.2 : 1 |
| **MELAA** | 2.6 : 1 | 6 : 1 |
| **Unknown** | 5 : 1 | 6 : 1 |
| **Asian** | 4.6 : 1 | 3.5 : 1 |
| **Other** | 12 : 1 | |

Table 6: Ratio of TOR incident to TASER show and TASER show to discharge. All ratios were simplified and rounded to the nearest 0.1.

In many of the TENR reports, race or ethnicity is reported within the narratives. This is generally alongside the physical size, age, and gender of the individual, suggesting increased threat in the TENR framework, when an individual is Māori/ Pacific Peoples, tall in stature, and male. This is consistent in camera footage where the age, size and ethnicity of the individual increases the likelihood of firing. There were instances where the officers who attended events involving Māori did not appear to have the cultural competence to deal appropriately with them. This, in turn, appeared to escalate interactions. Some police officers appear to lack the cultural competency to communicate effectively with Māori.

## Example

A male is threatening to commit suicide after a disagreement with his partner. He is in a small, enclosed space with a knife. There are multiple officers and a Police dog present. At one point the individual says he is Māori and officers say they are interested in knowing more. The individual responds saying, *"You're not interested, say the Māori alphabet."* Police respond incorrectly with Māori words for numbers, this escalates the individuals' anger. Individual responds in te reo .... the Police continue to escalate the offender by saying, *"Keep going, keep going there's 26 letters in the alphabet."* and then they begin to laugh.

The individual asks if Police are tangata whenua, and they respond by saying "No". Individual responds saying, "I am ... so fuck off," and the officer says to the offender *"I thought you said you were Cook Island Māori? Aren't you from the Cook Islands?" (Camera observation)*

# 3.2 Gender

## Males were nearly ten times more likely to experience a TASER discharge than females.

Over 85% of all TOR events involved a male. Ninety-two percent of TASER events involved men, and 90% of TASER discharge events. Demonstrating that males experience more force than females. While females made up 17.5% of all TOR events, the percentage of females involved in TASER tactics dropped by almost half to 8.3%.

Table 7 demonstrates gender distribution across all TOR events, TASER tactics and TASER discharges.

| Gender | TOR Events | | TASER Tactics | | TASER Discharge | |
|---|---|---|---|---|---|---|
| | # | % | # | % | # | % |
| **Male** | 2330 | 85.7% | 728 | 92.6% | 122 | 90.4% |
| **Female** | 476 | 17.5% | 66 | 8.3% | 13 | 9.6% |
| **Unknown** | 6 | .2% | 1 | .1% | | |
| **Total** | 2719[33] | | 786 | 100% | 135 | 100% |

Table 7: TASER tactics by gender.

Thirteen females experienced a TASER discharge. Four were European, five Māori, three Pacific Peoples and in one case the ethnicity of the subject was unknown. Nearly half of all females TASERed in the research period were aged between 21 and 30, two were between 17 and 20 years, two were aged 31-40, two were between 41-50 years, and one female aged 52-60.

As part of the Tactical Options Framework[34] (TOF), Police assess individuals against a Perceived Cumulative Assessment (PCA).

There are five categories in the PCA, which are represented in the TOF.

[33] There is no total percentage for TOR Events due to, in some instances, there being more than one person involved in a single event.
[34] See Appendix 1.

1. Cooperative - Willingly responds when approached.

2. Passive resistant - Refuses verbally or with physical inactivity.

3. Active resistant - Pulls away, pushes away, or runs away.

4. Assaultive - Intent to cause harm, expressed verbally, through body language/physical action.

5. GBH or death - Shows action intended to or likely to cause grievous bodily harm or death to any person.

Data indicated eight of the reports identified the female subject as assaultive and five cases as GBH/death (two of these were considered a threat to themselves). Six events involved weapons, seven verbal abuse, and nine cases reported assault on the police officer and aggressive demeanour. Seven of the cases identified the female as non-compliant and obstructive. Analysis of the videos indicated the females were aggressive, physically threatening and in over half of the cases attacking police officers.

Generally, females were TASERed in the upper body (chest/abdomen), the lowest point of the body indicated was lower back (two cases). There were examples of men being TASERed in the groin, face, buttocks, and legs.

Four of the 13 females TASERed were experiencing a mental health crisis[35]. All four were taken to the hospital for medical and mental health assessments, and none of the four were charged. Five females were under the influence of drugs and/or alcohol at the time of being TASERed.

Three of the events were family harm callouts. In one event, a female assaulted police officers when they forced access to the house after a family harm call. In the second event, a female was reported assaulting a male in a car. She was pulled over and attempted to get into the police car and assault the police officer in the car. In the third event, while it was not listed as family harm in the TOR, the original call to the Police was to report family harm. In two cases, the camera footage appears to indicate the females have been physically harmed prior to the arrival of police. The subsequent Police interaction involved both women resisting and failing to engage with police; the situation escalated and resulted in a physical altercation between the females and the police. One female was 17 weeks pregnant at the time of being TASERed, although the officer was not aware of this at the time of TASER discharge.

It was observed that the level of threat and physical assault was very high in the videos where females are TASERed. There was no evidence of the TASER being used to gain compliance or control over a situation, generally the level of threat to officers included either possession of a weapon and/or a physical assault. Analysis of TASER discharge events involving men indicated that the threshold for threat is considerably lower. In some cases, men were TASERed for non-compliance, or to gain control over a situation when no physical threat or weapon was present (noted in the report or apparent in the video). Women were also more likely to be taken for treatment in a mental health crisis and less likely to be charged than men.

### Example:

The officer having been called to a family harm event, was obstructed from entering the address by the female yelling “No!” and attempting to slam the door shut. She was yelling and screaming and saying, “No, fuck off!” She then ‘violently assaulted’ the officer multiple times in the face and head.

The officer said she is under arrest, the female then continued to resist arrest by thrashing her arms about and slipped out

[35] A ‘mental health crisis’ is defined by Police when attending and reporting in the TOR refer to section on mental health.

> of the jersey she was wearing to get away from the officer. The female then grabbed a wooden club and used it as a weapon to hit the other officer at the event who was arresting the male. At this point, the officer decided to fire the TASER. (Camera observation)

# 3.3 Youth and Elderly

Analysis of tactical options by age indicates that:

- 65% of all TOR events involved individuals aged between 21 and 40.
- 7% of all TOR events involved youth under the age of 16.
- 1% of all TOR events involved individuals over the age of 60.

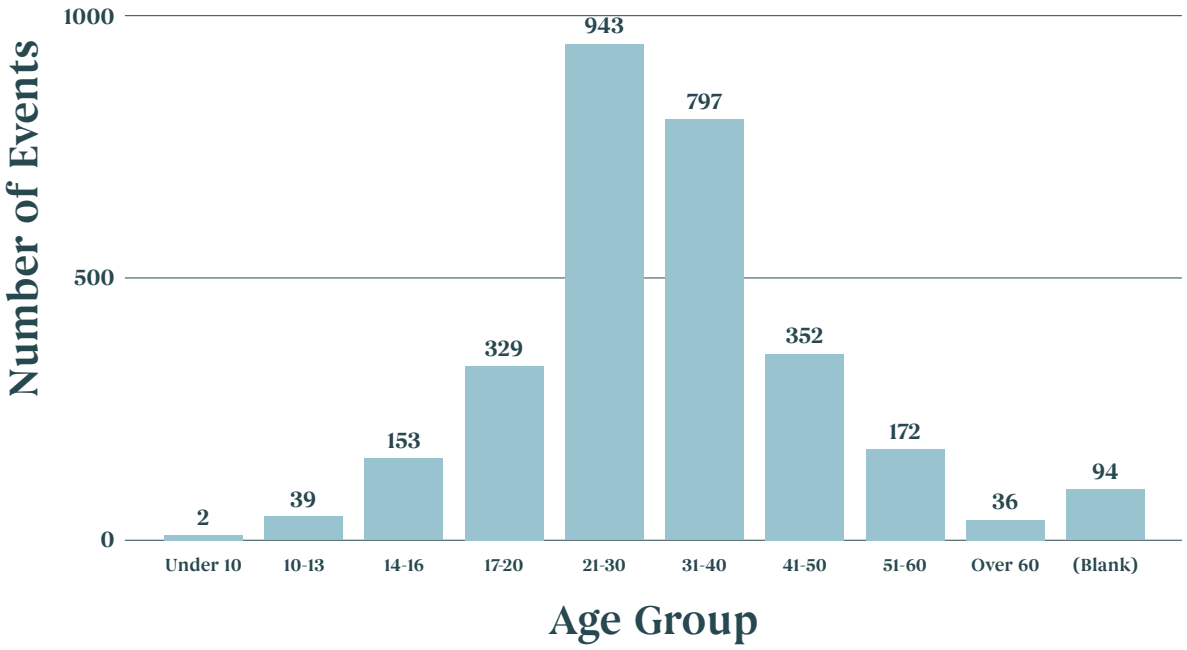


Figure 6: Age distribution of TOR events.

A comparison of population age distribution demonstrates that young people aged between 15-34 years feature disproportionally. Comparing the age distribution of TOR events to population age distribution is not entirely accurate as the NZ Police age group brackets provided differ from Stats NZ age group brackets. New Zealand Police provided this data for those aged between 21 and 60 in 10-year increments[36], Stats NZ age brackets are in five-year increments. However, Figure 7 demonstrates the over-representation of young people in the tactical options data. This pattern is consistent with TOR analysis by Police who cite the age crime curve "a widely observed phenomenon in which crime prevalence typically increases sharply during adolescence and the early 20s then gradually declines during older ages" (New Zealand Police, 2021, p. 107).

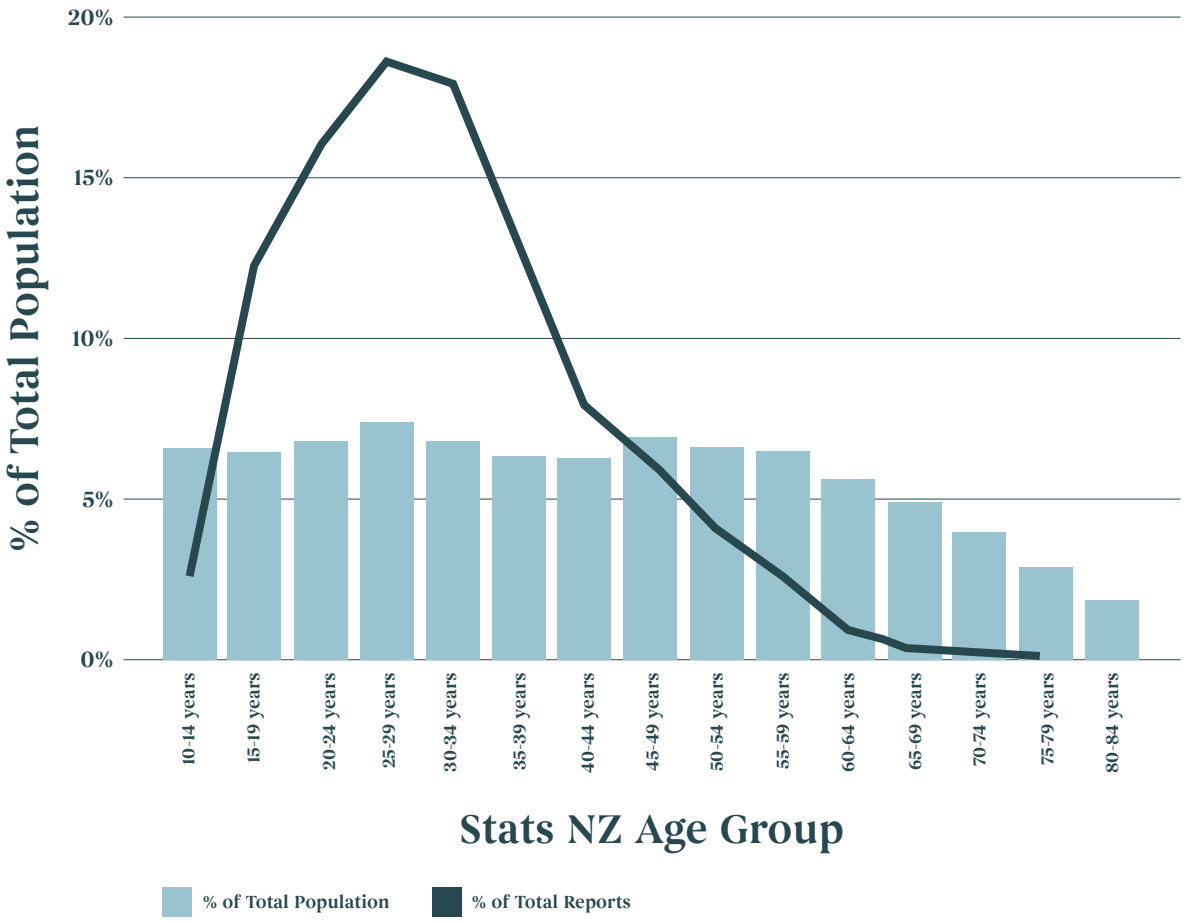


Figure 7: TOR age distribution and population distribution.

[36] Aged data was grouped for anonymity.

When looking at age distribution in the TASER tactic data, similar patterns emerged.

- 66% of all TASER events involved individuals aged between 21 and 40.
- 90% TASER of discharges events involved individuals aged between 21 and 40.
- 6% of all TASER tactics and 2% of TASER firings were with youth under the age of 16.
- 3% of TASER discharges involved over 60-year-olds.

# Age distribution of individuals across all TASER discharge

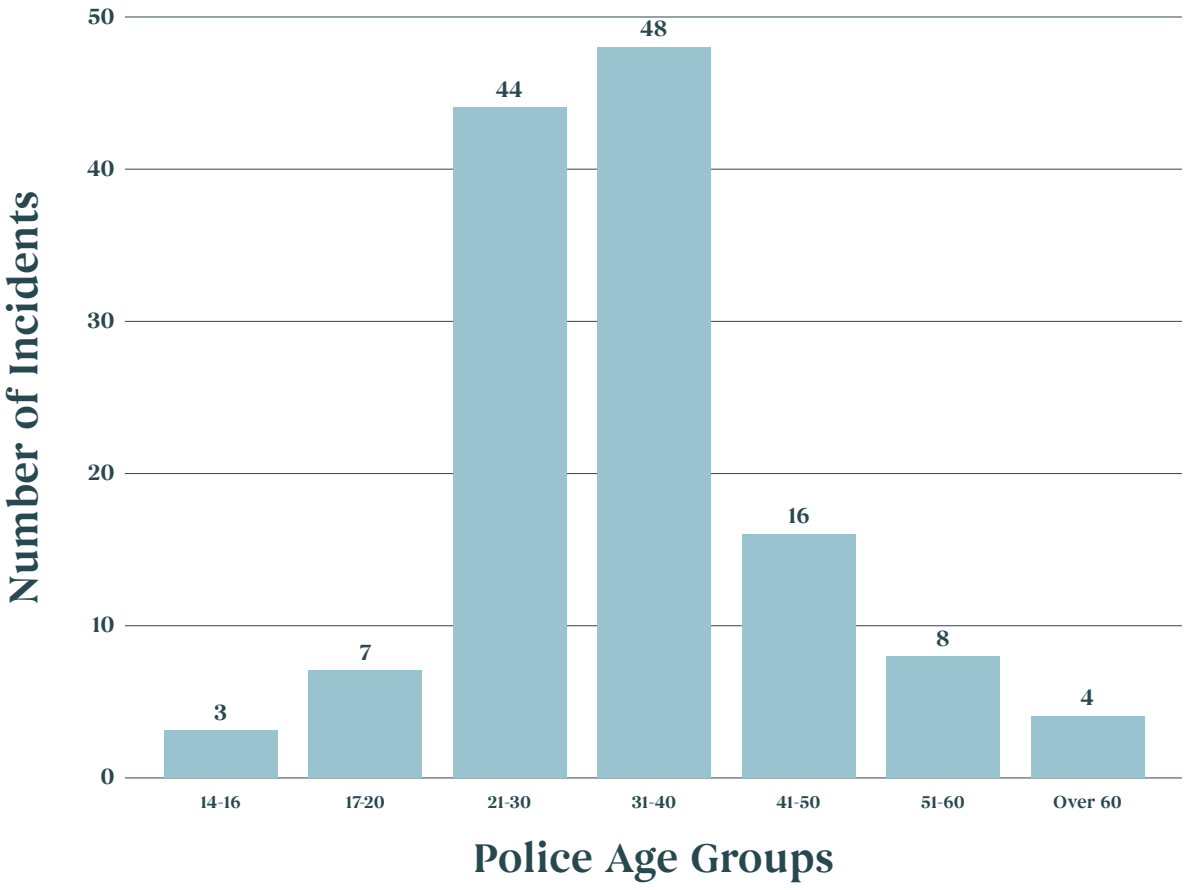


Figure 8: Age distribution across TASER discharge events[37].

[37] TASER discharge numbers (135) are higher than the number of events (130) due to TASER discharge events involving two individuals being TASERed at the same event, one person being TASERed twice at one event, and the age of two people not being recorded.

The following section focuses on TASER events on the youth and elderly.

## Youth – under the age of 18 years

Children under the age of 13 were evident in the TOR data (n=39). Five of these children were presented with a TASER, three were Māori, one European and one unknown. Four were male, and one was female. Two of the children had a knife and were threatening Police, the youngest, a 10-year-old, was attempting suicide with a knife, the others were abusive and assaultive. All five were laser painted and then complied with instructions.

There were three events where youth (14-17 years old) were TASERed. All were Māori males; two youths were 14 years old. All were TASERed in separate events. In all cases Police identified that the youth were threatening Police, were non-compliant and/or obstructive, were aggressive in their demeanour. All TASER videos showed the young persons as emotionally heightened and distressed. The older of the youths had a weapon, was intoxicated and had stolen a car. The Police deployed TASERs as their first tactic, followed by using OC spray. In one case, a youth aged 14 was TASERed after an order by Oranga Tamariki to remove him from the house he had run away to. He refused, became emotionally distressed and was assaultive toward the officer while being removed. This interaction resulted in him being TASERed.

In these reports the physical size of the 14-year-olds are noted as a factor contributing to the threat assessment and in turn the decision to fire the TASER.

### Example

Narrative written about a 14-year-old Māori boy who was TASERed.

*"Youth is a large build, male, taller and physically bigger than Constable (name) and myself … (name)." (Police TOR narrative)*

## Aged 60 years and over

Thirty-six tactical option reports identified individuals over the age of 60 years. Eleven of these events involved TASER tactics, and four individuals were TASERed as a result. All four were male, three were Māori, and one was European. Three of the four videos indicated the person was in a mental health crisis; however, their mental states were not coded as IM or 1X[38] in the TOR. One individual was subsequently sectioned under the Mental Health Act, indicating there are inconsistencies in how mental health data is recorded in TORs. As noted earlier in this report, Pacific Peoples and Māori are less likely to be perceived as being in mental distress than NZ Europeans (New Zealand Police, 2016). All four of the TORs for over 60-year-olds were described as verbally abusive, non-compliant/obstructive or having an aggressive demeanour. None of the reports included consideration of the age of the individual and the potential threat to life by using a TASER on an older person.

Observations of camera footage and narrative reports indicate that age of the individual impacts on officer decision-making. In youth aged between 14 and 17, physical size appears to compound the threat that is perceived by the officers in TASER firings. In older aged individuals, the potential risks of firing (to the life of the individual) were not noted, however, both advancing age and mental health may have put these individuals at a higher risk of death.

[38] 1X is the Police code for an attempted suicide, 1M is the Police code for mental health call out.

# 3.4 Mental health/ alcohol and drug

**It is difficult to accurately describe the influence of mental health and drug and alcohol on individuals who are involved in tactical options reporting.**

There are several reasons for this. Police application of mental health codes is predominantly subjective and dependent on the definition applied by the police officer or call taker/communicator. There are multiple codes applied under a category of 'mental state' in the report including, 'excited delirium hysteria' or 'distressed emotional state (not 1M)' which are recorded in narrative reports. Coding of mental health is primarily based on the observation of behaviour by the attending officer. This creates a problematic analysis as the variation in interpretation of what constitutes 'mental health or mental distress' is likely to vary considerably across all the reports. Relying on 1M callouts as a definition was also problematic. For example, a callout was coded as a family harm event but the individual was sectioned under the Mental Health Act. For this reason and for the purposes of this report we incorporated the following codes in our analysis of 'mental distress[39]'.

- Threaten/attempt suicide (coded 1X),
- mental health (coded 1M),
- excited delirium/hysteria,
- distressed emotional state (not 1M) or,
- experiencing both mental distress and being under the influence of drugs and alcohol.

We excluded 'none', 'other', and solely 'alcohol/ drug intoxication'.

[39] By using the term mental distress, we aim to better capture the broader range of peoples' experiences, demonstrate respect for the preferences of those with lived experience, and better reflect Māori and Pacific Peoples views of health and wellbeing (Ataera-Minster & Trowland, 2019; Russell, 2018).

Using this definition, 40% of all individuals who feature in Tactical Operations Reports are identified by Police as displaying behaviour consistent with these interpretations under 'mental distress'. Forty-two percent of TASER deployments and 54% of all TASER discharge events were noted as involving people who were experiencing mental distress and were mentally unwell and/or suicidal.

## Intersection with ethnicity

To understand how mental distress, drug and alcohol impact and ethnicity intersect, data was analysed by ethnicity and mental state. The following table demonstrates the rates at which various ethnicities are identified as both Mental Distress and Alcohol and Other Drugs (AOD); AOD alone; and Mental Distress alone when a TASER is discharged.

| TASER Discharge by Ethnicity and Mental Distress/AOD | | | | |
|---|---|---|---|---|
| Ethnicity | Mental Distress & AOD | Mental Distress | AOD | Total TASER Discharge |
| Māori | 8 | 18 | 5 | 57 |
| European | 17 | 14 | 5 | 40 |
| Pacific Peoples | 6 | 7 | 10 | 26 |
| MELAA | 1 | 0 | 0 | 2 |
| Asian | 0 | 1 | 0 | 2 |
| Other/Unknown | 2 | 2 | 2 | 8 |

Table 8: TASER discharge by ethnicity, mental distress and AOD.

Of those who experienced a TASER discharge:

- Forty-six percent of Māori were reported as demonstrating or exhibiting mental distress, and 23% were under the influence of alcohol and/or other drugs.
- Seventy-eight percent of European experienced mental distress, while 55% were under the influence of alcohol and/or other drugs.
- Fifty percent of Pacific Peoples experienced mental distress, while 62% were under the influence of alcohol and/or other drugs.

It is important to note that these categories are applied subjectively by Police at the time of the reporting based on their observations of the entire incident. There could be multiple explanations for the under or over-representation of different ethnicities in different mental states.

The Operational Capability workgroup within Police presented data to show the proportion of TOR events with TASER use where each of four mental/emotional state observations were made, by subject ethnicity (European, Māori, and Pacific Peoples only) and year (2018-2022). Police state that mental health rates have increased year on year and are apparent in 50% of TASER usage (New Zealand Police, 2021).

## Narrative/Camera observation

Patterns in Police engagement tactics emerged in the analysis of narrative TORs and TASER camera footage involving individuals experiencing mental distress. During the encounters, Police frequently displayed an assertive and transactional approach and did not engage the person in the discussion.

Reports indicated there was a belief that those clearly experiencing distress were non-compliant[41], rather than unwell, or unable to follow instructions, which in turn warranted a harsher response from Police. Many of the narrative reports noted that when Police are called to a 1M they are given the history of unwell individuals. This history is discussed in narrative reports as part of the justification for the use of a TASER. However, Police attend and resolve most 1M incidents without TASER (or any use of force).

Some individuals in significant mental distress appeared unable to comprehend Police directives, as evidenced by their responses in the TASER videos. The lack of responsiveness could be attributed to factors such as feeling overwhelmed and not understanding Police communication. This would be particularly relevant if the person was neuro-diverse and/or had a hearing loss or was under the influence of alcohol and drugs. However, lack of responsiveness was perceived as refusal and/or non-compliance. Not one narrative report noted the ability or inability of the individual to comprehend the directive as having an impact on the decision to use force or not. Camera observations noted Police asking, "Do you understand?" and while the individual may have answered "Yes" it was clear they did not comprehend what was being asked (this is demonstrated in the case example below).

While many of the individuals did eventually comply with Police directives, it remained challenging to ascertain the extent of their cognitive understanding. This was most notable when multiple officers were simultaneously issuing commands. This often led to confusion, with the individual not following the directions of the officer who had presented the TASER, but instead responding to another, resulting in TASER discharge. Camera footage and narrative reports indicate[42] that some individuals may have had a disability (cognitive and/or physical); however, this was not noted by the officer in the narrative report. There is no coding structure within the tactical options report to identify disability.

Police appeared to be unwilling to approach individuals they perceived to be unwell, and reported this in the narratives, preferring to maintain distance and deploy a TASER[43]. Police often directed individuals to lie face down on the ground; when they did not comply, they were TASERed. It is unclear why individuals are directed to lie on the ground as it is not part of tactical options training. When discussed at the sensemaking meeting with Police, some perceived that this pattern was part of a Police subculture influenced by overseas practices and ways of employing arrest tactics.

In an analysis of camera footage, time appears to be a decision-making factor. There appears to be an urgency to gain control of situations very quickly with mentally unwell individuals. The urgency appeared to put pressure on the officer's ability to assess the most suitable approach to ensure overall safety. Consequently, it appeared discharging the TASER was perceived as the quickest and most efficient means of gaining compliance with police requests. This was often supported by officer narratives in the reports. Camera footage of events indicated not all police have the skills to appropriately respond, manage or de-escalate a mental health crisis using appropriate humanistic tactics.

There were four incidents where individuals in mental health residences/units were TASERed. Three were male (2 European, 1 Pacific Island) and one female (ethnicity unknown). Two males were in hospital inpatient mental health units, the other two were in community based mental

[41] Observed as not following instructions.
[42] Through researcher observation.
[43] Distance is required to fire a TASER and is recommended.

health residences. Using TASERs on patients presents ethical dilemmas relating to moral duties, harm prevention, and human rights within mental health care (Pikiuha-Billing, 2024).

None of the narrative reports noted the potential safety risks for the individual being TASERed[44]. That is, they did not consider that being mentally unwell increased safety issues for the individual when TASERed. This was also apparent in the youth and aged events reports, where officers did not report that they considered the age, emotional state, and the impact of being TASERed, on implications for the future mental and/or physical health of the individual.

## Example

Police have been called regarding an individual, it is flagged as 1M, the individual is noted as a gang member, he is Māori. The family have rung the Police asking for support, they say the individual has come home from work and is acting suspiciously, smashing all the windows in the home and cutting himself, he is heard making odd comments about Satan.

Footage begins by showing Police TASERing the individual. The TASER probes make contact with individual RThigh-back=1, UpperBack=1. Once TASERed, the offender falls to ground in a seated position. Police ask him to lie on the ground multiple times and offender replies saying "yep". Police then notify the offender that he is now being sectioned under the Mental Health Act.

Police ask for the individual to put his hands behind his back and lie down on the ground. Individual continues to sit cross legged on the driveway shaking stones in his hand on the ground and not responding to Police, he then begins playing with the stones on the driveway talking to himself. The individual begins to play with the TASER wires. Female officer comes over and asks for his name and asks for (Name) to get up slowly, she asks the offender if he knows what she is saying and individual responds saying, *"I do speak English ... my master Satan will win the planet ... fuck up."*

The female officer responds saying *"(name) we need compliance."* The individual responds saying, *"baby please ask the task master ... will you blow my whistle Satan."* Individual then gets up, turns away from the police and walks towards the house again, male police officer follows and discharges the TASER at him again, he falls to the ground on his back, the officer asks for the offender to lie down on his front, he asks this calmly multiple times.

The individual is not responding or engaging in any kind of conversation. The female officer asks the individual to get on his stomach right now. The female officer asks again if the person understands what's going on. The individual responds saying *"Yes"* and gets up and walks towards the front door of the home again, which results in the male officer using his TASER again, and the female officer yelling *"We're trying to make this easy for you."*

Once the individual is on the ground a third officer arrives and begins to engage, he speaks to the individual in a calm voice, reminds him of his name, and says *"You remember me man, you know me, it's ok."* He says to the individual, *"I'm not here to hurt you, I'm here to make sure you're safe, are you ok?"* He then lets him know again that he is going to be sectioned under the Mental Health Act, he speaks to him softly and tells the individual he is going to handcuff him. This officer is able to handcuff the individual, the individual does not speak or resist. (Camera observation)

[44] A part of the TENR framework under Exposure.

# 3.5 Family harm

**Family harm (5F) incidences made up a total of 16.8% (n=474) of all TOR events, the highest single event code theme across the six-month data period[45].**

Incidences of family harm comprised 22% of the total TASER tactics (n=173), and 19.25% of events where a TASER was discharged (n=26). One in five TASER events in the six-month period was at a family harm event.

Approximately half of all individuals involved in family harm TASER tactics events were recorded as experiencing mental distress (1M or 1x)[46]. The rate of mental health and the presence of alcohol and drugs increased in situations where the TASER was fired.

| Family Harm Events | |
|---|---|
| **TASER Deployment** | **TASER Discharge** |
| 52% of 5F noted mental health (and AoD) | 58% of 5F events were coded as experiencing mental health |
| 49% alcohol and drugs present | 54% alcohol and drugs present |

Table 9: TASER tactics and discharge at 5F TOR events and intersection with Mental Health and AOD.

[45] 'Other' came in higher but includes a much larger range of event types such as, 6820 General restrictions, 6110 Offences under trespass act, 4Q Enquiry/investigation, 4X Execute search warrant, 5120 Wilful damage, 3W Watching/observation, 4120 Burglary, 4211 Unlawful takes motor vehicle, 2R Recovery motor vehicle, 1110 Murder, 1F Fire assist/ambulance/traffic, 1710 Threaten to kill/do GBH, 1510 Aggravated assaults, 4X Search warrant, 21 Information.
[46] Mental health includes codes 1X suicidal, 1M mental distress, excited delirium/hysteria, and distressed emotional state (not 1M).

Fourteen of the 26 family harm events where a TASER was fired involved Māori. Figure 9 demonstrates the distribution of ethnicity across the 26 family harm events.

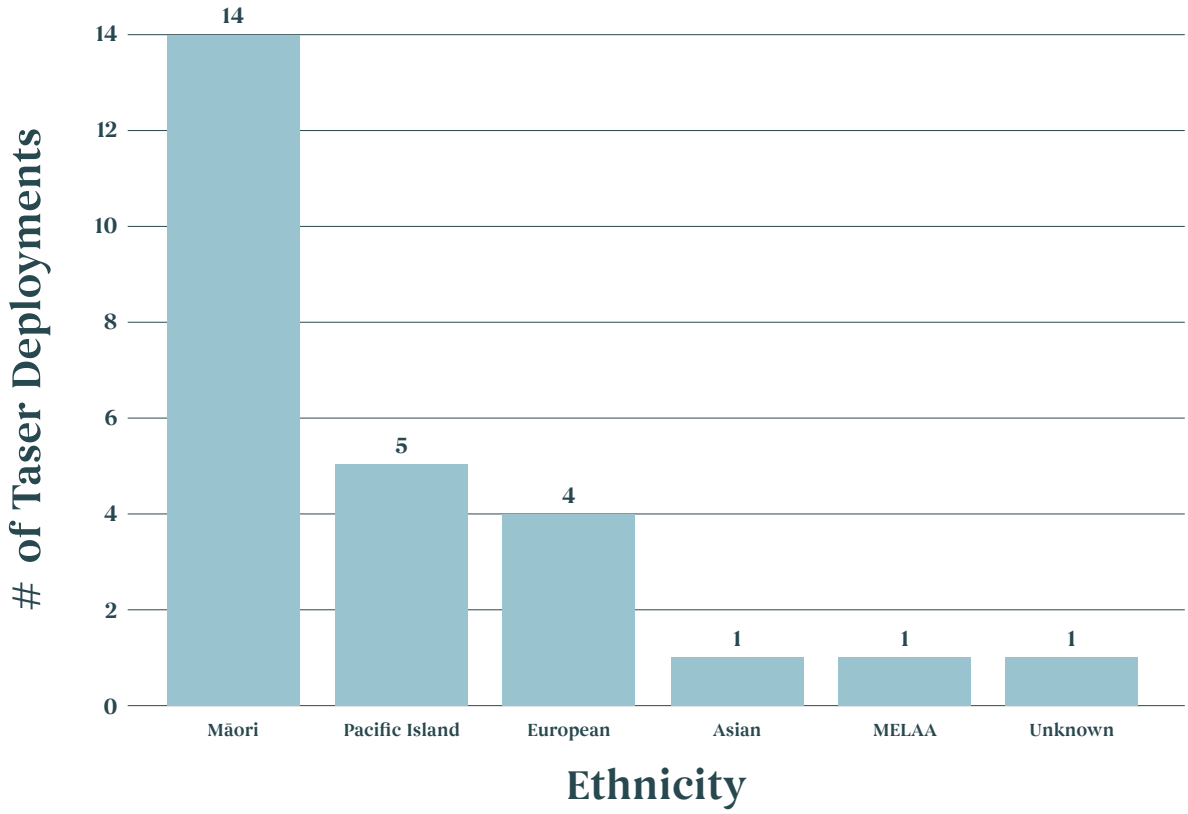


Figure 9: Ethnicity of individuals TASERed at family harm events.

Interestingly, when these events were analysed with mental health/drug and alcohol:

- All four European family harm events involved mental health and/or drug and alcohol.
- Eleven of the 14 Māori family harm events were coded as either mental health and/or drug and alcohol.
- Of the five family harm events involving Pacific Peoples, one of the Pacific Peoples events involved mental health and AoD; one involved AoD alone.

This data demonstrates the intersection of ethnicity, mental health and AoD on family harm, and the complexity of the social harm that Police are dealing with.

## Narrative/Camera observation

Observations of the TASER camera footage concerning family harm (5F) events indicated that the environments Police attended were often chaotic, mostly with multiple people present. In some cases, it appears that Police have difficulty ascertaining who the perpetrator is in the conflict. In two cases, although the females had signs of being physically harmed (bleeding etc.), they were non-compliant with police directives, aggressive and attacked officers resulting in being TASERed. Notably, in several instances when Police were attending family harm events

where a TASER is presented, the female, while predominantly the victim, is also heightened and resistant to police intervention.

TASER camera footage of family harm events demonstrates the physicality of these events, with multiple people engaged in physical altercations. It appears flags for previous family harm events may be primers to TASERs being presented and used. Narrative reports indicate that many family harm events where TASERs are drawn/used involve families who frequently interact with Police.

### Example

Camera footage shows police entering a room, it is dark with curtains closed. Police are heard yelling at the offender, as he holds a woman by the throat. The woman is screaming, it is clear he is holding her and not allowing her to leave. Police approach and attempt to pull the man from the woman, he pushes back against the mattress in the room causing them to fall. When they fall, police are seen attempting to get the female from the male resulting in the TASER being discharged, the male does not let go of the female and continues to hold her, eventually he releases her.

Once the TASER is discharged, the police officer asks other officers to turn on the light and to open the curtains. Police officer is heard telling the male to "Take a deep breath brother, take a deep breath" the male responds, "This is happening now" and the same officer responds saying, "Yep, we're fine now take a deep breath."

The same officer then tells everyone in the room to "Take a deep breath." The male attempts to get up and the same officers says, "Na, na, na, just take a deep breath." The video ends with the officer holding the TASER asking another officer to come forward and hold the TASER. (Camera observation)

# 3.6 Fleeing/decamping/ evading or escaping custody

**Evading arrest is a crime. It is considered to have taken place when an individual intentionally flees from a police officer attempting to arrest, detain, or investigate them.**

Likewise, to flee or decamp means individuals are leaving the scene to avoid detection or arrest. There were 1101 events involving TOR tactics where an individual is coded as 'fleeing or decamping'. In 305 of these events a TASER was shown, and in 54 events the TASER was discharged[47].

The New Zealand Police TASER (CEW) policy is clear that it is only appropriate to TASER an individual when they are fleeing to avoid arrest when police believe they pose an imminent threat of physical harm to themselves or others. In addition, even when the use of TASER against a fleeing subject is justified, police must consider the additional risk of injury to the subject following an uncontrolled fall. This additional risk should form part of police decision-making when they are deciding to use TASER against a fleeing subject. In some situations, deploying a police dog rather than a TASER may be more appropriate to mitigate the increased risk of injury and to incapacitate the fleeing subject (New Zealand Police, 2022b, p. 9)

In the very few instances male offenders were TASERed in the back/buttocks and fell forward these males had previously assaulted police officers and a police dog could not be used.

## Decision-making/Police interactions

The purpose of this study was to investigate one of the three key areas as outlined by the UPD Independent Panel; patterns in decision-making/ Police interactions around the use of force. For this reason, themes were identified across the data regarding police officer decision-making and interactions at TOR/TASER events. As noted earlier in this report, decisions made by police in situations where force is applied are intended to be based on the TENR framework. The New

[47] Behaviours are reported for the incident as a whole, this does not necessarily indicate that was what was occurring at the time the TASER was discharged, the individual may also have been assaultive.

Zealand Police describe the threat assessment methodology in the Tactical Options Framework (TOF) of which TENR is a significant component. The underlying principle is "safety is success" (ibid, p. 11), and this includes the safety of police officers, members of the public, victims and perceived offenders who are pursued and/or arrested.

Within the context of the TOR, TENR is used primarily for justification purposes. Therefore, police officers do not report on what they considered when 'not discharging' – for example the age of the individual, the health, or the potential psychological or physical impacts e.g., falling onto concrete. While there is a section in the report to note other options, narrative reports indicate that police refer to the framework to justify the use of force or a particular tactic. When tactics are discussed as an option that were not used, it is generally because the tactic is not appropriate for the space, setting, or impact on the police rather, than the impact on the individual. For example, in reports, decisions to not use OC spray were often due to *'enclosed space, potential to impact officers.'*

Primarily the TENR is about police officer perception of threat. The decisions made are subjective and are justified within the context of the TOF and police policy. Observation and analysis indicate force is not always applied in a timely, proportionate and appropriate way – but it can be explained through TENR. Given Police officers may have to justify their decisions to use force in an investigation or potential prosecution, the stakes are high for officers.

On occasion, reports justifying force can be inconsistent with TASER camera footage. In particular, on some occasions the behaviour of a male individual is described as far more aggressive or assaultive than what is apparent in the video. The description may reflect the officer's 'perception' at the time due to other factors, such as the flags given to the officer prior; the subject's ethnicity, gender and size; time of day; or even the officer's level of fear. In these instances the camera footage demonstrates the individual is not aggressive or assaultive at the time of being on camera, and during the discharge of the TASER.

The current framework is unclear about what level of TASER use is justified when suspects are resisting. Research into international TASER applications indicates some police authorise the use of TASER when the suspect is assaulting an officer; others permit the use of the device at a lower level of resistance, such as when the subject is actively resisting arrest; and yet others allow for use of the device after continued passive resistance (The U.S. Government Accountability Office, 2005). Between the policy, TENR framework and PCA, it is difficult to determine exactly what level of resistance or aggressive behaviour warrants TASER use, leaving the judgement up to individual officers to decide on the frontline.

Data analysed for this report indicates that police decisions to use a TASER are influenced by a number of factors, including:

## Physical appearance, including ethnicity and size of individual

The physical appearance and size of an individual can influence perceived threat and therefore decision-making. Often mentioned in TORs are the 'size and stature of individuals' as impacting on decisions. For example, the 14-year-old described as the size of an adult, *"as a large build"* this can also be contrasted to the officer's physical size and stature in reports, *"Much bigger than myself and the other officer"*.

A theme across the TOR narratives was the physical condition of the individual. For example, in narratives individuals were described as *"(Male) was a large solid built male, taller than me, heavier set than me and he looked in shape as if he trains at the gym"*. This could contribute to the TASERing of males aged between 18-34, as they are more likely to appear physically fit and intimidating. While ethnicity is not directly referred to in the narrative reports

as a decision-making factor, making decisions based on these characteristics may contribute to explaining the over-representation of Pacific males in TASER tactic data/discharge.

## Gender

Women are significantly less likely to be TASERed despite demonstrating more assaultive behaviour in TASER video footage. Men were more likely to be TASERed for what appeared to be compliance, or for 'passive resistant behaviour'. Video observations indicate far less assaultive behaviour than women. Officers consider the gender of the individual, particularly before discharging a TASER.

## Levels of perceived aggression

How officers perceive aggression and physical threat impacts decision-making. PCA's indicate perception of threat varies greatly across the narrative reporting and video footage. For some officers, 'arguing or asking why they had been stopped' was noted as assaultive behaviour, for others, aggressive stances, and/or verbally threatening police, constituted assaultive behaviour. Interpretation of the categories of threat within the PCA (cooperative, passive resistance, active resistance, assaultive, GBH or death) vary significantly across the TORs. For example, a narrative report states, *"He was getting really worked up and looked like he was going to explode."* The camera footage shows the individual trying to run away and being TASERed while retreating.

The perceived aggression of individuals post TASER discharge also appears to impact police decision making. In several camera observations after an individual had been TASERed the level of threat perceived by police did not take into consideration the physical incapacitation achieved by the TASER. Police are seen to be giving commands and the individual is perceived as being non-compliant, however it appears in some observations that they are unable to comply due to physical incapacitation as a result of TASERing.

Studies with able bodied individuals[48] found there needs to be time given for psychomotor recovery after a full trunk CEW exposure. This is important for law enforcement as officers typically give commands before and after a CEW exposure and expect prompt compliance (Criscone & Kroll, 2014).

## Gaining control of a situation

In some interactions perceptions of 'loss of control' or 'gaining control' of a situation were noted in the reports as impacting in decision-making. There are examples of officers TASERing for non-compliance, particularly when individuals did not get down on the ground quickly enough. They appeared to be TASERed to be subdued or dropped to the ground in order to be arrested.

## Time and resource

In a number of reports and camera footage observations, it was apparent that time and resource pressure impacted the officer's decision to use a TASER. In some instances, the officers reported needing to resolve difficult situations quickly, mindful of other callouts. In addition, when officers were in difficult situations alone, it appears this impacted on their decision-making with regard to use of force. Narrative reports indicate that being a lone attending officer or a rural officer decreased perceptions of safety and warranted increased use of force.

[48] Volunteers were Police academy students undergoing extensive physical training and were pre-screened to eliminate health problems and drug use. Subjects who have a CEW exposure in the field are a distinctly different cohort that were, presumably, noncompliant with law enforcement. Altered mental status from disease or drug use is a common cause of noncompliant behavior, and relative to healthy subjects, might significantly delay the ability to respond to officer commands with or without a CEW stimulus (Criscone & Kroll, 2014).

> *"Being the only two Constables in the area and with the closest unit from us 20 minutes away, my fear was around if they pulled something on us (weapons) and how long it would take to get help to us if things began to escalate." (police officer TOR narrative)*

## Flags or alerts on the NIA database

Flags or alerts that are held against individuals on the NIA police database appears to change the way in which police approach situations. These flags can range from family harm involvement, mental health, gang association, and carrying a weapon. Officers describe how flags increased their perception of threat and the way in which they entered and managed situations.

> *"As I approached the vehicle, I could see ... his alerts and at the bottom were two Required to arrest alerts for EM Bail breaches. I saw he had five flags for use of force, one for uses/carries firearms, one for threat, one for violence, one for gang alert and the two for Required to arrest. I saw all of these flags and that he was Required to arrest, and thought he is a bad bugger and that he needs to be arrested." (police officer TOR narrative)*

## Previous experience with individuals

TOR narrative reports noted that some individuals were well known to police; it is apparent that in these cases previous experience informed future decision-making. In some cases, this may have meant force was more likely to be used, however in other cases, relationships and knowledge of the individual diffused or de-escalated situations.

## Mental health flags and/or perceptions of mental health

Data demonstrating use of TASER tactics to deal with 1M and 1X situations indicate that mental health callouts or flags impact on decision-making at an event. Both TASER video footage and narrative reports indicate that police perceived individuals at 1M/1X events as unpredictable. Officers noted the desire to maintain distance from the individual, increasing the likelihood of a TASER discharge (as it can be discharged from a distance). In several 1X situations, the individual was using a weapon (knife) to self-harm, and in some cases, this was turned and used to threaten police.

## Indications of alcohol and/or drug

While it is mentioned in reports as an impact in decision-making the data indicated that the rates of alcohol and drug use across TOR tactics did not increase TASER use significantly. In some non-firing cases, it appears that the alcohol and drugs impaired the ability of the individual to be assaultive, however, in other cases, it was noted as the justification to discharge (this appeared most likely in methamphetamine cases where individuals appeared in heightened physical, emotional and assaultive states).

## Possession of weapons

Possession of a weapon was noted by officers as increasing threat and justifying increased force. In some situations, the links made to weapons appeared tenuous (ranging from a box of beer to a pocket knife found in a bag after an event). Most weapons that were visible to officers during the event were during suicidal (1X)/self-harm events with a knife.

## Fleeing/evading and decamping

Over a third of instances involved individuals fleeing, evading, decamping, indicating that this may increase the likelihood of being TASERed. As noted earlier, police must consider the risk both to themselves, the public, victims and to the individual prior to TASERing. In some cases, it

appeared the individual was TASERed to prevent them from fleeing, however the initial interaction with police did not warrant TASERing (i.e., road stop), but the interaction escalated, and the individual fled resulting in TASERing.

> *"I thought he was going to fight me, but he chose to run off." (police officer TOR narrative)*

## Officer experience/confidence

Officer experience appears to impact on decision-making in several ways. Firstly, officer experience was a variable noted in narrative reports. It appears from analysis that less experienced officers have lower tolerances for aggressive or resisting behaviour. For example, this officer notes their level of experience in TOR *"I was working with Constable x, she has been in the police for about 7 months. I have been in the police about 2 and a half years."* Later in the report it discusses the impact of a lack of experience with aggressive individuals.

Observations of non-firing events note officers who appeared confident, remained calm in challenging and unpredictable situations were more likely to de-escalate situations by responding in a calm and measured manner.

Secondly, previous recent experiences with aggressive individuals appeared to increase officers' perception of threat. In one particular report, the officer noted that a particularly challenging event (where the officer was assaulted in a previous shift) resulted in increased fear in a separate unrelated event on another day, and a TASER discharge. The following narrative demonstrates the officer's insight post-event and the impact of the previous assault on their judgement.

> *"Prior context to this event (date two days prior) I was assaulted. During this assault I had my hair pulled multiple times in an attempt to force me to the ground. During this assault I deployed my TASER as I had significant fears for my safety and needed to get out of that situation. I felt that if I did not get out of that situation, I would have been seriously assaulted and genuinely feared for my safety throughout this event. In hindsight, this event had a greater impact on me than what I anticipated and played a role in my decision-making that night. We advised comms of this, and this started to put thoughts running through my mind about whether there was a large number of young people in this vehicle, whether they had guns or other weapons etc. Coupled with the previous night's events this made me feel anxious and uncomfortable … I remember thinking that I just wanted to be going home for Christmas, I felt quite elevated and unsafe due to what feels like a culmination of factors. When I saw that the vehicle was slowing down, all I could think was, what do they have in the vehicle? Do they have any weapons? I already had my TASER drawn at this point, rightly or wrongly I was fearing for my life." (police officer TOR narrative)*

In another similar report an officer acknowledged that the cognitive load and 'fearing for his safety' may have altered his recollection of his actions.

*"I have reviewed the TASER footage and believe I contact stunned (individual) a total of 25 times. I was very surprised by this as in my recollection it was much less, around 5-6 times. I cannot explain this other than being in cognitive overload and fearing for the safety of myself and Constable x from both the actual threat from (individual) and the potential threat from (associate).*

These examples demonstrate that officers are required to make very quick decisions under threat and that this is incredibly challenging. These reflections, on the effect of previous events and the threat they experienced on decision making, are commendable. There were very few reports where officers acknowledged that their decision-making may have been influenced by a previous experience or threat. The primary purpose of these reports however is to justify the use of force, so reflection on decision-making is not required.

## Intersection of these variables increased the likelihood of TASER discharge

As per the PCA[49], the intersection of these variables increases the likelihood of being TASERed. For example, a physically large male, at a family harm event with mental health flags is likely to experience force being used against them. The nature of the decision-making framework indicates that multiple factors increase the level of perceived threat. While the level of threat is consistent with TENR and the PCA, this did not always match the level of observed threat in video footage. For example, in the PCA 'assaultive' by definition is the 'intent to cause harm, expressed verbally' how this is interpreted by officers varies considerably in reporting.

In analysing decision-making, researchers noted what was not mentioned. For example, none of the narratives discussed the inability of individuals to comprehend commands, although event footage and descriptions indicate this may have been the case.

The age of individuals, particularly the young (14 years), or old (65+ years) and the potential impact of both physical and psychological trauma was not discussed, despite evidence that the age of the individual may increase the likelihood of the TASER event resulting in death or trauma (White & Reedy, 2009). This may be due to the TOR being used for justifying use of force.

Variables that are outside of this analysis but are likely to impact on Police decision-making, such as location (particularly lower socio-economic neighbourhoods) were not able to be analysed reliably. However, it was noted in narratives that physical setting, visibility and known addresses were amongst the variables that officers considered when assessing threat and level of force.

[49] Perceived Cumulative Assessment.

# Discussion

**The purpose of this study was to investigate one of the three key areas, as outlined by the UPD Independent Panel, patterns in decision-making/police interactions around the use of force, and whether, where, and to what extent bias exists at a system level in the police's operating environment.**

A high quality of police work is essential in a socially fair and democratic society (Staller et al., 2022). Especially since the police are mandated with legally using coercive means to uphold the law (Terrill, 2014; Dunham & Alpert, 2021), it is essential that the delegated power is exercised professionally by each individual officer.

Police officers use discretion at multiple points throughout the citizen–police encounter. These typically include deciding to stop and search a person or to not intervene; whether to issue warnings; determining how much help a victim of crime needs; and how much response is needed in relation to an individual entering the criminal justice system (Smith & Alpert 2007). The vast majority of encounters made by police officers result in a non-violent outcome on both sides. In the police profession there is a high probability of experiencing conflict situations on a daily basis (Staller & Koerner, 2022). While many conflict situations may be resolved using co-operative means, the use of coercion seems to provide an appealing shortcut (Staller & Koerner, 2021a). As such, it falls to the discretion of the police officer(s) to make a sound judgement as to which conflict resolution strategy might be appropriate in any given situation.

Examining TASER use and the use of force are crucial issues for criminology to tackle because they raise crucial questions about the police role, police legitimacy, human rights, police discretion, accountability and technological change (Dymond, 2022, p. 6). Police officers can wield considerable power and it is important that this power is investigated and held to account (Lipsky, 2010; Dymond, 2022).

The following section discusses aspects of bias that influence individual decision-making, and implications for the police system.

## Decision-making

Human decision-making is a complex process involving biological, psychological, and social factors and their complex interactions. The decision of what strategy to employ and how to apply it is highly dependent on the stable and acute factors of the individual: their attitude, their emotional state, belief set, skills, physical characteristics etc. (Staller & Koerner, 2022). In short, it depends on the individual and the current internal system state, and the situational factors involved (Cojean et al., 2020). This applies to all people regardless of their occupation. However, decision-making processes become even more complex when decisions need to be made in threatening, ambiguous and rapidly changing situations (Voight & Zinner, 2023).

Police decisions to use force can have far-reaching consequences including death and/or potential prosecution. Part of the process to determine threat requires police to make judgment calls and interpretations to evaluate risk, danger, and fear, which research has found, can come from experience, expectations, and racial bias (Lecoq et al., 2021; Trinkner et al., 2019; Woods, 2019). Research has found police officers hold stereotypes and preconceived notions about risky characteristics as a result of continuous exposure to particular groups, ultimately influencing how they make decisions through observation and interpretation of actions and behavioural schematics (see, e.g., Klinger, 1997; Muir, 1977; Rubinstein, 1973; Smith & Alpert, 2007; Cojean et al., 2020; Staller & Koener, 2022).

New Zealand Police are not immune to the impact of stereotypes. The over-representation of Māori in negative statistics as a result of failing state systems increases Māori exposure to police intervention, which in turn reinforces negative stereotypes (Savage et al., 2021). Blank et al (2019, p. 14) describe this process as a bias cycle, "trigged by stereotyping, influences the relationships between the New Zealand Police and Māori cultivating tense and negative patterns of interactions." Constant exposure to stereotypes means that over time Police Officers are effectively conditioned into implicit bias against Māori (Te Atawhai o Te Ao, 2021).

Stereotypes have been found to be central to police decision-making which results in police focusing more towards those who are socially marginalised (Quinton, 2011). Research has shown that certain stereotypes are commonly used by police officers to classify people based on their ethnic origin and social class (Minhas & Walsh, 2021; Bowling & Phillips, 2007; Graef, 1989; Jefferson & Walker, 1993; Quinton, 2011). In addition, differential exposure by the police to certain types of suspected offenders leads to the development of cognitive scripts that may increase officer suspicions (Minhas & Walsh, 2021).

Stereotypes are defined as "qualities perceived to be associated with particular groups or categories of people" (Schneider, 2005). Stereotypes are the mind's way of finding and applying patterns in everyday life (James, 2017). Applying a stereotype is a common shortcut to making a decision, particularly when an individual is under mental stress (Mendes & Koslov, 2013; Stewart et al., 2013). These mental shortcuts, referred to as heuristics[50], facilitate problem-solving and probability judgments. A typical setting where the heuristics pathway is taken is an ambiguous situation; one where the individual is under mental stress, confusion, or under cognitive load (Van Knippenberg et al., 1999).

While stereotypes can be effective for making immediate judgments, they can result in irrational or inaccurate conclusions. Most commonly, groups that are stereotyped are groups based on their minority status, such as race, religion, or sexual orientation. In this way, stereotypes are potentially harmful, causing inaccurate evaluations, negative or positive, of a person or situation that does not deserve such appraisal and subsequent judgement. Stereotypes are often a factor in underlying prejudice and discrimination (Feather & McKee, 2008).

[50] Heuristics are mental shortcuts that allow people to solve problems and make judgments quickly and efficiently.

Findings with respect to diversity and police decision-making under threat (DUT) can be contradictory and conditional on the research conditions and variables. Psychological perspectives suggest that the officers' and suspects' personal characteristics, experiences, views, and cognitions determine the application of force (Terrill, 2005). However, evidence indicates significant variation in application, for example, some officers are more aggressive in stressful situations while others show greater restraint when confronted by disrespectful conduct (Engel et al., 2000). In a similar way, some individuals are more aggressive or hostile toward the police, a variation that in any event exists in the general population.

Generally, research acknowledges police attitudes and beliefs are the central factors influencing police behaviour (Phillips & Sobol, 2012) and that reactions to risk and threat are strongly influenced by previous decisions made in similar contexts (e.g., police experience on the road, in training, or even through media exposure) (Harman et al., 2019).

For example, the weapon bias effect, misidentifying harmless objects as weapons after seeing Black (compared to White) faces, has been replicated in multiple studies (Payne, 2001; Payne et al., 2005; Correll et al., 2002; Correll et al., 2007). The research has proven invaluable in furthering understandings of how race and racial stereotypes inappropriately influence perception and judgment (Rivera-Rodriguez et al., 2021). More recently, studies into police DUT have demonstrated racially biased responses from individuals' knowledge of societal stereotypes associating Blacks with danger, regardless of their personal endorsement of such stereotypes (Rivera-Rodriguez et al., 2021).

Stereotypes are not only applied to individuals but also to places. Police may be more likely to make decisions to shoot in a perceived threatening neighbourhood compared to a perceived safe neighbourhood (Kahn & Davies, 2017). Place-based cues, especially those most noticeable to an officer (e.g., socioeconomic status, poverty, racial and ethnic makeup, disorder, crime, pedestrian and traffic density, and land use), may significantly affect an officer's worldview and thereby his or her discretion (Lum, 2010). The place-based cues that dominate the existing literature primarily focus on race, ethnicity, and socioeconomic status of an area (see Smith 1986; Smith & Klein, 1984; Terrill & Reisig, 2003).

Given the evidence, it is unavoidable that police DUT in Aotearoa, New Zealand is influenced by stereotypes, particularly in situations where they perceive high levels of threat for themselves or others. The over-representation of certain groups within the overall TOR data indicates that stereotyping is occurring. In addition, the over-representation of some groups such as Māori men, serves to confirm stereotypes with past experiences and in turn reinforce future decision-making. Research has shown that people who are culturally stigmatised understand that negative stereotypes put them at risk of being discriminated against (Crocker et al., 1998). This has the potential to influence how people who belong to stereotype groups perceive, interpret, and respond to situations in which a negative stereotype might be applied to them. In other words, even when situations are "essentially the same" (Steele, 1997, p. 613), they can be psychologically experienced in very different ways by people who are at risk of being stereotyped, judged, and treated negatively as compared to other people not at such risk. Steele and Aronson (1995) identified this phenomenon as a stereotype threat.

Stereotype threat likely impacts on Māori perception of police behaviour, particularly when they are in a confrontational situation with police. In 2001, a report on Māori-police relations found that although there is no one unified set of Māori attitudes towards the police, there are nevertheless common perceptions and experiences of the police and their operational practices. These were summarised as follows:

- the police as an institution is hostile to Māori and their cultural practices;

- police hold negative perceptions of Māori;
- a significant number of Māori distrust Police;
- the often-discriminatory nature of interactions between police and Māori;
- racist and negative preconceived ideas and attitudes of police officers toward Māori and Māori issues; and
- the institutionally racist culture of the NZ police force.

(James, 2000).

These perceptions by Māori whānau are likely to influence the decision-making of Māori suspects when approached by the police. When Māori consistently experience a disproportionate level of force in their interactions with police, it not only reinforces the perception of systemic bias, but also engenders a distrust of the police. This distrust stems from a sense of vulnerability and a belief that the very institutions meant to protect and serve are instead targeting and harming them. As a result, a cycle of aggression towards the police can emerge, as individuals and their whānau who feel targeted by the system may resort to heightened resistance or confrontations, further exacerbating tensions and potentially leading to more aggressive encounters (Novich & Hunt, 2018; Jefferson, 2023). More recently links have made to the association between high lifetime police stops and PTSD symptoms (Hirschtick et al., 2019) indicating that the frequent and disproportionate level of police interaction with Māori may not only perpetuate a deep distrust of police, but it may also result in negative mental health impacts for Māori communities.

Stereotypes can be applied to other marginalised groups. It appears in the data that individuals who are experiencing a mental health crisis are also stereotyped by police in a decision-making model. Several of the discharge narratives describe individuals who are experiencing mental distress as 'unpredictable'. Research has found that people generally associate mental illness with unpredictable behaviours and loss of control, these persons trigger emotional reactions such as fear (Aubé et al., 2023; Angermeyer & Dietrich, 2006; Boysen & Vogel, 2008; McCarthy et al., 2021).

## TENR Model

The TENR threat assessment model is designed to manage cognitive load particularly when police are making judgements about their safety and the safety of others in threat situations. However, a threat assessment such as TENR can unwittingly support judgement and decision-making based on stereotypes. This report focused primarily on decision-making when the TASER is discharged, identifying a range of variables that contribute to the decision to use force. By design, the frameworks used by police to support officer judgement mean that some individuals may be more likely to be TASERed.

In particular, when making a judgement about perceived threat using the TENR model, officers describe physical size, height, a muscular build and being physically fit, as increasing the threat perception. Men aged between 17-40 who are physically fit and large in stature, are far more likely to be judged as more threatening in the TENR framework. This could serve to explain why Pacific men were twice as likely to experience a TASER discharged at an event where a TASER is pulled more than any other ethnicity. It has been noted in health studies that 'Pacific Island males are often seen as intimidating and potentially violent' (Malo, 2000, p. 26).

Officer perception of threat due to physical size, stature and fitness is likely to follow international patterns demonstrating the intersection of ethnicity. International research has shown that Black men tend to be stereotyped as threatening and, as a result, may be disproportionately targeted by police even when unarmed. These biased threat judgments in turn promoted police justifications of hypothetical use of force against Black suspects of crime. The research concluded that perceivers appear to integrate multiple

pieces of information to ultimately conclude that young Black men are more physically threatening than young White men, believing that they must therefore be controlled using more aggressive measures (Wilson et al., 2017).

As part of decision-making, officers are provided with information prior to attending calls. This includes the type of call, for example, mental health, family harm and any previous flags that may be on the police database connected to individuals. This study indicates that flags and alerts influence threat perception and decision-making. However, flags can be problematic. For example, "Family Violence Involvement" is one of the most commonly applied flags (640,000 active alerts on 295,000 people) however, people are automatically flagged when linked to a family harm event, whether they are a suspected offender, victim or a witness (Block, 2019).

In addition, call out codes, such as 1M (mental health) or 1X (threatens/attempts suicide) feature in TOR/TASER data. The number of 111 callouts for the mentally ill grew by 55% in the past five years and is expected to grow by 10% each year (New Zealand Police Annual Report, 2021/2022). Recently, the IPOC (2020) found that a person having mental health concerns increased the odds of TASERs being drawn and used (p. 10). In this study, people who were identified as experiencing a mental health crisis were described as 'unpredictable and emotionally heightened and coded as assaultive or GBH/death' increasing threat perception and in turn decisions to use force. Over 50% of TASER discharges in this study involved a mental health description by the attending officer.

This is a significant concern as the known health risks of TASER are heightened in the case of people in mental health crisis. People with mental illness also have a high incidence of comorbid physical illness and use of illicit substances and may be prescribed psychotropic medications that further heighten their risk (O'Brien & Thom, 2014). Many of those who have died internationally following a TASER event were disorientated, emotionally disturbed (Braidwood, 2019) and/or experiencing mental health crisis (INQUEST, 2020a) at the time the weapon was used.

Stakeholders and community groups have expressed concerns that police officers do not always have the skills required to communicate effectively with people who have mental health concerns or learning disabilities and that this increased the likelihood of police officers using force (Independent Office for Police Conduct, 2021; p. 10). In addition to any traumatising effect of TASER, their use in mental health emergencies is likely to have a deleterious effect on subsequent engagement with mental health care owing to an increased perception of coercion (Hallet et al., 2021).

## The contribution of the system

Dymond (2022) notes that research into police officer decision-making under threat indicates that choices that officers make are 'a product of social control' and 'influenced by people' with other considerations downplayed. Dymond argues that 'the problem of excessive use of force is not something that can be addressed at the level of the individual officer alone' (p. 123). She explains there is an over emphasis in research of 'the notion of projectile electric-shock weapons as a neutral tool and that decision-making is the individual responsibility of officers. However, the decisions officers take should not be considered solely on their personal responsibility, but include the influence of technologies, the content and length of officer safety training, and traditional police culture' (p. 121).

Policing is a system with interactive complexity and tight coupling. Research has likened a police system to air traffic control, which similarly leaves little room for error and can give rise to catastrophic failures (Baker, 2018). Baker (2018) contends that the nature of police organisations as complex social systems may be a principal reason for failure[51]. Studies designed

[51] Failure in this context is referring to acts of police violence and overreach in use of force situations.

to investigate error in complex systems that are tightly coupled like aviation and medicine, agree that errors are the product of human failings and poorly designed systems (Schwartz, 2019). When failures occur, almost always human error has contributed. Information is perceived and processed incorrectly, careless mistakes made, and occasionally individuals act recklessly or maliciously. But faulty systems also play a role. For example, technology can be confusing, rigorous schedules can fatigue workers, organisational culture can stifle productive communication, and policies can put workers in situations where they have to make difficult decisions under high-stress conditions (Schwartz, 2019).

Although research into police systems is emergent, learning from systems research in medicine can be similarly applied to understanding police systems. Shwartz notes:

*"Police officers, health care professionals, and pilots share one critical workplace imperative: All three must make split-second, life or death decisions under conditions of uncertainty. In those split seconds, each must process a dizzying amount of information. They must perceive available facts about the emergent situation. They must recall what rules of behaviour should apply. They must weigh the risks and benefits of available alternatives. And they must coordinate with others on their team. Cognitive psychologists have shown that people are particularly likely to err when making these types of complex, highspeed, high-stress, high-stakes decisions."*

A key insight of this body of research is that it is impossible to cure limitations of human perception, cognition, and decision-making (Schwartz, 2019). However regulation models within these sectors have focused on what has been called the "perfectibility model". This model is based on the notion that physicians and nurses will not make mistakes if they are properly trained and motivated by the threat of discipline or lawsuits (Kapur, 2016). However it does not consider the complex and challenging system within which we expect humans to always perform to procedures or policies.

A key feature of developing an organisational approach that might address both systems and human behaviour is the ability to learn and adapt to support success (Staller & Koerner, 2022). In order to create a system that supports good decision-making, researchers focus on failures in the system, seeking to understand how and why these failures have occurred, and adjusting systems to support success (Reason, 2000).

This requires a transactional shift in the current perception of failures, in particular that officers justify force rather than acknowledging that conflict situations could have been managed without force. In terms of addressing bias in the system, this requires that police are able to acknowledge and talk about bias and understand how this might have implications for their own decision-making, particularly under threat.

## Summary

This study focused on a six-month snapshot of TOR data, and particularly TASER data with the purpose of investigating patterns of equity within the data. It is important that this report is read in conjunction with the other papers that contribute to the phase one report. As Fernando (2018) notes in a recent paper, over-representation is a complex issue that cannot be simply explained or remedied with a single piece of evidence or research.

*"Most research into the over-representation of Māori in the criminal justice system misses the complexity of this as a wicked policy problem … this complexity lies in what has caused the over-representation, historically and legally speaking, as well as what continues to perpetuate it, and what needs to change in order to fully address the over-representation. Like the many tentacles of a taniwha, we must attack all the prongs in order to address this issue." (p. 63)*

There is a dearth of research that examines the impact of stereotypes and confirmation bias in decision-making under threat in the New Zealand Police. In addition, international TASER research is generally police focused and there

is very little research on the impact of being TASERed, particularly from the perspectives of those who have been subjected to it and, as such, our understanding in this area is underdeveloped (Mead et al., 2015, in Dymond). In Aotearoa, New Zealand, there is very little debate about the ethics of TASERing the young, the aged, the vulnerable and how the TASER experience may further traumatise already harmed individuals – for example youth in care or people in a mental health crisis.

Since the introduction of the TASER in 2010 analysis indicates the use of TASER as a tactical option has steadily increased at a greater rate than population growth. This research has found that while use of the device has increased at violent events, the form of that use has changed. The use of the discharge mode has increased compared with the show mode and as the use of the TASER increased, injuries sustained by subjects and officers also increased (den Heyer, 2020). Patterns of over-representation in ethnicities, with men, and those who have mental health conditions are consistent with international evidence.

Since 2021, the New Zealand Police has operated the TASER X2 with an integrated camera, and the AXON evidence system has been used to store and access TASER video footage. The TASER X2 has been discontinued by AXON. It will be replaced by the TASER 10 that does not have an inbuilt camera as it relies on the use of standalone Body Worn Camera (BWC) which New Zealand Police do not currently use. Given the concerns at the introduction of the TASER X2 regarding use on marginalised communities and those with mental health conditions have been realised in the data, the introduction of the TASER 10 with increased capability and reduced mechanisms for review is concerning. Research shows that with the best intention there is 'mission creep' whereby TASERs are used in less lethal situations than originally intended, and are used on the young, the vulnerable and the aged.

The over-representation of Māori and Pacific Peoples in Police TASER data has far-reaching consequences for trust and community-police relations. The intention of this research is to contribute to understanding the complexity of the 'wicked problem' and creating a safer and more equitable society for all.

## Recommendations

- Strengthen TASER governance within New Zealand Police. In line with recommendations from other studies, there should be community involvement in TASER review and governance. This should include a joint health/justice review of TASER use with individuals who are experiencing a mental health crisis, including the lack of 'health system' response for these individuals.

- Increased de-escalation training opportunities for police, particularly responding in a more humanistic way to those experiencing a mental health crisis.

- An examination of levels of perceived aggression and what constitutes 'assaultive and aggressive behaviour'. Including examination of how racial/gender bias through size, gender, ethnicity perception and stereotype may increase exposure of some individuals to force.

- Adopting a learning orientation and transactional shift in the current perception of failures, in particular that police are able to acknowledge and talk about stereotype bias and understand how this might have implications for their own decision making, particularly under threat.

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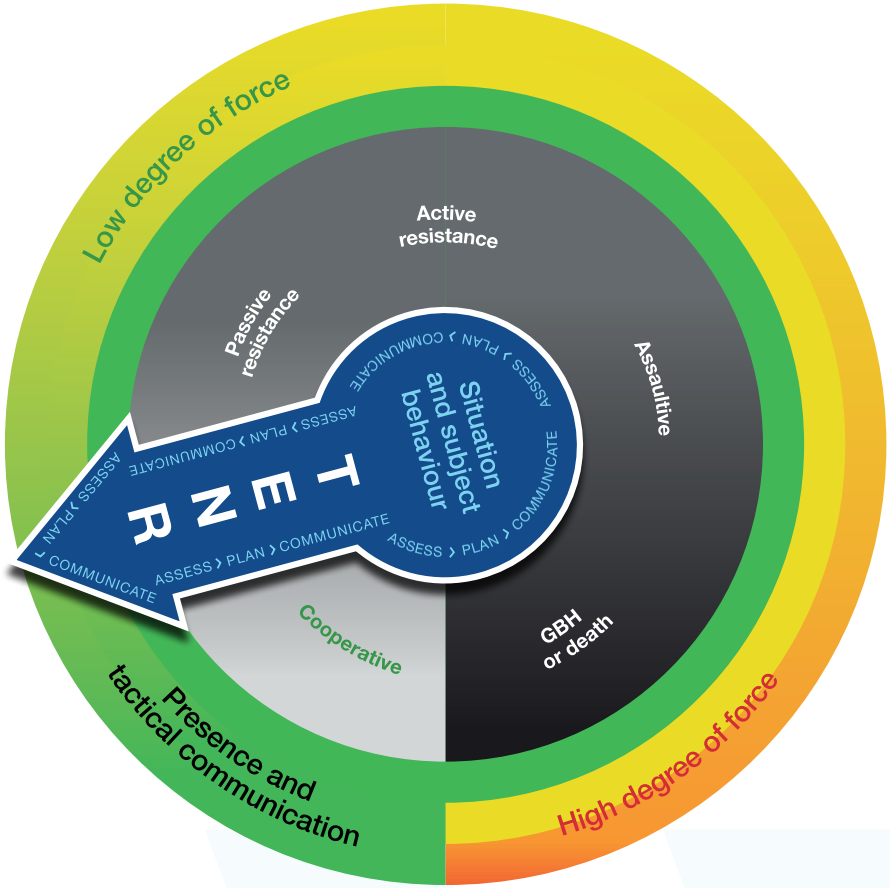
# Appendix 1: Tactical Options Framework

# Tactical Options Framework




**T**HREAT The subjects intent, capability or opportunity along with the physical environment

**E**XPOSURE Awareness of safety, security or public trust and confidence issues

**N**ECESSITY Assessment of the need to intervene (act) now, later, or not at all

**R**ESPONSE Proportionate, timely, reasonable, and lawful Police actions using tactics and tactical options

**TENR** requires assessment and constant reassessment, planning and communication to be successful

## Perceived cumulative assessment

Your subjective assessment and continuous reassessment of an incident, using the TENR model, based on information known about the situation and the subject's behaviour. The PCA may escalate and/or de-escalate more than once during an incident.

There are five categories in the PCA, which are represented in the TOF – cooperative, passive resistance, active resistance, assaultive, GBH or death.

## Engage, disengage or delay?

Your decision to escalate or de-escalate your response, and your choice of tactical option(s), must be continuously reassessed, using the TENR model, so you choose the most reasonable option, given all the circumstances known at the time.

Effective communication between police is as critical as effective tactical communication with the subject(s). Constant assessment, planning and communication between police should occur throughout a use of force incident.

## Presence and tactical communication

Tactical communication is Police's preferred option for resolving incidents. Use tactical communication throughout an incident, alone or in conjunction with any other tactical option used.

## Tactical options and degrees of force

» officer presence and tactical communication
» mechanical restraints eg handcuffing
» empty hand techniques eg physical restraints and strikes
» OC spray
» baton – Taser - dogs – weapon(s) of opportunity
» firearms and other force with serious implications

## Prepare, show and use force

"**Prepare**" force means carriage of a tactical option.
"**Show**" force means presenting a tactical option at a subject.
"**Use**" force means the application of force on a subject.

## Reporting use of force

The Use of Force chapter of the Police Manual outlines which "shows" and "uses" of force you are required to report. **Reporting force facilitates evidence-based decision-making to improve employee and public safety.**

The legal authority to use force is derived from the law, not the TOF. If you use force that is not authorised by law, or is excessive, the fact that you relied on the TOF will not justify or legitimise the use of that force.

**Reasonable force** includes force that is **necessary** and **proportionate**, given **all the circumstances known at the time**.

New Zealand POLICE
Nga Pirihimana O Aotearoa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