

IN THE POLICE CONDUCT PANEL

IN THE MATTER OF THE POLICE ACT 1996

AND IN THE MATTER OF THE POLICE (CONDUCT) REGULATIONS 2020 AS AMENDED

BETWEEN:

THE CHIEF CONSTABLE OF KENT

The Appropriate Authority

AND

PC 14314 HUMPHRIES
FORMER PC 14970 GOSDEN

The Officers

PANEL DECISION AND REPORT

Chair:	ACO Andrew Pritchard
IPM:	Tadz Kluczynski
	Ann Stow
ILQA :	Derek Marshall
AA Counsel:	Joanne Kane
Officer's Counsel	Justin Yang
Former Officer's Counsel	Liam Chinn
Federation Reps	PC Brett Wright
	PS Neil Mennie
AA	DI Charles Goodhew
Hearings Manager	Rachael Lashbrook
Officers	PC Humphries and FPC Gosden

Introduction

1. This case proceeded under the amended version of the 2020 regulations and the hearing took place between 9 February 2026 and 11 February 2026 before ACO Andrew Pritchard (Chair) sitting with Tadz Kluczynski and Ann Stow (Independent Members). The writing of this report was delegated to Derek Marshall LLB MCI Arb (Independent Legally Qualified Advisor - ILQA) but all the Panel members have contributed to and approved the report. The report confirms their findings and decisions.
2. The AA was represented by Joanne Kane and the Former Officer by Liam Chinn. The Officer was represented by Justin Yang. For conveniences in this report both will be referred to as “the Officers”. Both Officers attended and gave evidence to the Panel.

Legal Framework, Factual Background and the course of the Hearing

3. The statutory and regulatory basis of the Panel lies in Section 51 of the Police Act 1996 and the Police (Conduct) Regulations 2020 (“the Regulations”). In addition the Panel is to have proper regard to the Statutory Guidance on Professional Standards, Performance and Integrity in Policing Issued by the Home Office also issued in 2020¹, known as the “HOG”, which states at paragraph 1.4:

The procedures described in this guidance are designed to accord with the principles of natural justice and the basic principles of fairness. The process and procedures covered by this guidance, along with the accompanying legal framework, should be administered accordingly and applied fairly and consistently to everyone. The

¹ The Panel understood that a new version is shortly to be released but for the purposes of the hearing, this is the relevant document

guidance on the individual procedures is designed to further the aims of being fair to the individual who is subject to the process, as well as all parties involved. It is intended to assist with arriving at a correct assessment of the matter in question and providing public and policing confidence in the system.

.....

The persons conducting misconduct hearings will consider the facts of the case and will decide the facts (on the balance of probabilities) and whether the officer's conduct amounted to misconduct, gross misconduct or neither

4. The aim of misconduct proceedings is not primarily punitive although they can have that effect on the officer concerned. The overriding objective is to set and maintain the highest standards of professional integrity, to ensure public confidence in the Police and for the public to see that these things are done in a fair, open and transparent manner. The appropriate standards of professional behaviour for police officers is set out in Schedule 2 of the 2020 Regulations and the relevant sections engaged in this case essentially turn on the alleged unreasonable, unnecessary and disproportionate use of force following the arrest of a suspect, referred to as "Person A" or Mr A" throughout these proceedings.

5. The factual basis of the allegations is the same against both Officers and is set out in the following 25 paragraphs from the Regulation 30 Notice:

1. *PC Humphries and PC Gosden were on duty on 7 September 2024 and attended an address in response to a 999 call. Both officers arrived at the address at around 2:00 am*
2. *PC Gosden arrested Person A. At the point of arrest, Person A was handcuffed to the rear and taken to the rear passenger seat of the police car by PC Gosden. PC Humphries talked to the occupants of the address.*
3. *Person A moved seats in the police vehicle by moving along the back seat to sit behind the driver's seat.*
4. *PC Gosden asked Person A to return to his original position. Person A did not do so.*
5. *PC Humphries returned to the vehicle. He opened the rear door on the driver's side (where Person A was sitting). PC Humphries told Person A to return to the other side of the car and told him that if he did not do that he would drag him from the car.*
6. *Person A did not move. They had an exchange in which Person A said, "Do not point your fucking finger."*
7. *PC Humphries dragged him from the vehicle and onto the ground into an area with plant pots. Person A was lying on his back and PC Humphries was on top of him.*
8. *PC Humphries:*
 - a. *Punched Person A on his neck;*
 - b. *Punched Person A's face/temple;*
 - c. *Use his forearm and/or elbow to press Person A's throat and neck*

9. *PC Humphries shouted at Person A words similar to, “Don’t you fucking bite me” and “Don’t you try and fucking bite me.”*
10. *Person A appeared to lose consciousness.*
11. *PC Gosden and PC Humphries turned Person A onto his left side. At this stage, Person A appeared to regain consciousness. Person A was helped to sit and then stand.*
12. *Person A was arrested.*
13. *He was placed back into the rear passenger side seat.*
14. *PC Humphries held Person A’s arm. PC Humphries pointed his finger at Person A.*
15. *Person A told the officers to drag him out of the car again and spat.*
16. *Both officers removed Person A from the car for a second time and took him to the ground. Person was face down the ground and remained handcuffed to the rear. He could be heard to be struggling. Both officers were restraining him.*
17. *PC Gosden delivered two knee strikes towards Person A.*
18. *PC Humphries punched Person A on at least one occasion.*
19. *PC Gosden punched Person A on five occasions.*
20. *Person A said that he had not been resisting.*
21. *Person A asked for water and stated that he could not breathe and that he was suffocating. Water was refused. He was turned onto his side by the officers but continued complaining that he could not breathe.*
22. *Other officers arrived and they gave him water.*
23. *A police van arrives² and Person A is placed within it. Person A is further arrested while in the police van.*

² Sic. The Panel interpreted this as “arrived” and that the rest of the sentence should be in the past tense.

24. *PC Humphries and Gosden did not provide any first aid to Person A at any stage. Person A was not conveyed to hospital. He received no for his injuries from either officer and there was no attempt to seek medical assistance in light of his injuries and apparent loss of consciousness.*
25. *PC Gosden and PC Humphries completed use of force forms following the incident. The use of force forms do not set out the full extent of the force used against Person A and do not include the impact on Person A, including that he had lost consciousness.*
26. *Neither officer challenged, reported or took any action in respect of the force used by their colleague.*

6. The breaches of the required professional standards alleged were as follows, and again this is the same for both Officers:

1. *You breached the standard of use of force as the force as described above against Person A was not reasonable, necessary or proportionate.*
2. *You breached the standard of authority, respect and courtesy in that you:*
 - a. *In using force against Person A, both officers failed to adhere to this standard.*
 - b. *In their treatment of Person A, the officers did not treat him with self-control, tolerance, respect and courtesy.*
3. *You breached the standard of honesty and integrity in that you:*
 - a. *Failed to provide a full and honest account of the use of force used against Person A following the incident.*
4. *You breached the standard of duties and responsibilities in that the officers:*
 - a. *Used force and treated Person A in a manner which was contrary to their duties and responsibilities as police officers.*
 - b. *Did not provide a full and honest written accounts of the use of force used against Person A following the incident.*

c. Failed to provide any care or seek medical assistance for Person A following the incident.

5. You breached the standard of challenging and reporting improper conduct in that neither officer challenged, reported, or took action in respect of their colleague's behaviour.

6. Your behaviour amounted to discreditable conduct in that your actions as set out above were in breach of the standard of conduct as your conduct is likely to undermine public confidence in, and the reputation of, the police service.

Essentially therefore, the case against the Officers stands or falls upon the central allegation that the use of force against Mr A was not reasonable, necessary or proportionate.

7. Both Officers denied the allegations in full in their respective Regulation 31 responses (FPC Gosden at p332 and PC Humphries at p345). They both accepted that force was used on Mr A following his arrest, and on two occasions whilst he was being removed from a police car, but on each occasion they say that the force was justified, necessary, reasonable and proportionate.

Preliminary Matters

8. Prior to the hearing the Panel had read and digested the agreed bundle of documents. They were also greatly assisted by a detailed Opening Note prepared by Ms Kane. An important preliminary matter was then raised by Counsel for FPC Gosden which is set out in full in his written submissions and in which reference is made to the IOPC policy document on bringing and continuing cases which involve an allegation of the excessive use of force.

9. In order to understand Mr Yang’s submissions it is first necessary to set out the recent changes in the law: The law changed on 30 June 2026 (Police Conduct Amendment Regulations 2026). The new law now states as follows:

The Police (Conduct) Regulations 2020 are amended as follows.

(2) In Schedule 2 (standards of professional behaviour), for the fifth paragraph (use of force) substitute—

- *“Police officers only use force when they honestly believe this to be necessary. The force used should be necessary, proportionate and reasonable.”.*

10. The old law was set out in 2023 in the well-known case of W80³. The Supreme Court **decided** that the civil law test is the applicable use of force in police misconduct proceedings (it having previously been understood to be the criminal law test). This meant that if the officer acted out of an honest but mistaken belief that they or others were in immediate danger, they could rely on that belief only if the mistake was objectively a reasonable one. This follows at least in part the law in the well-known case of Ivey v Genting Casinos⁴. This contrasts with the subjective criminal law test which enables the officer to rely on an honest belief regardless of whether that belief was mistaken or if mistaken, regardless of whether the mistake was a reasonable one.

³ [2023] UKSC 24

⁴ [2017] UKSC 67

11. Mr Yang’s argument (in summary) was that in view of the change in the law since the original IOPC investigation, there should have been a re-assessment of the decision to proceed with the case in accordance with the IOPC’s own policy document. By reference to that paper, he argued, the IOPC must do the following things in stages:

Stage 1 – Apply the civil law test to determine whether there is a case to answer

Stage 2 – If there is a case to answer, go then to ask whether a reasonable disciplinary tribunal could also find a case to answer applying the criminal law test, judging conduct against the circumstances as the officer honestly believed them to be, without the additional requirement of reasonableness

i. If the answer is a yes, proceed to determine whether disciplinary action is justified in the ordinary way

ii. If the answer is no, the Policy is clear that disciplinary action is no longer justified, and the proceedings should be withdrawn, unless there are case-specific factors which the decision-maker “will need to set out and explain... in writing” (paragraphs 22 and 23).

12. Although he did not make separate submissions about the matter, Mr Chinn told the hearing that he would wish to make the same argument. Presenting Counsel Ms Kane did not seriously resist the application and conceded that it was properly made and the ILQA advised the Chair that in his view, Mr Yang was correct. The matter was therefore adjourned so that the IOPC could consider its position.

13. Having done so, the case was resumed and the IOPC's position was explained to the hearing as follows: The assessment would not be different under the new law because (say the AA) the difference between the civil and the criminal law test is not material.

It is alleged that the force used by PC Gosden and PC Humphries was excessive, assessed against their account of the circumstances as they honestly believed them to be. It is not alleged that it was unreasonable for either of them to have formed a belief as to any particular circumstance, including that Mr A had bitten PC Humphries, spat at both officers and pinched PC Gosden.

14. This led to a further and trickier legal issue arising. Mr Yang accepted that a decision based on the criminal law test could not change the law as amended by Parliament: The new law however is not retrospective in effect⁵. This case came to the attention of the AA as long ago as 2024 and the Regulation 17 notice is dated 17 November 2024. It is the old law that applies in this case and not the new law so that the test remains the civil test and it is for the AA to show that the Officer did not honestly and reasonably believe that the use of force was necessary. His point was a rather different one. In his initial oral submissions he said the AA could not properly assess and present the case on one basis (the criminal law test) but then ask the Panel to apply the civil law test to the assessment of whether the use of force was justified when the belief was not

⁵ Transitional provisions: 3.—(1) The amendment made by regulation 2 does not have effect in relation to—
 (a) a pre-commencement allegation, or (b) an allegation against a police officer or former police officer which—
 (i) relates to a matter in respect of which a pre-commencement allegation against that person has been made, and
 (ii) comes to the attention of a local policing body, a chief officer of police or the Director General on or after 30th June 2026 at a time when the pre-commencement allegation is being handled in accordance with—
 (aa) the Police (Conduct) Regulations 2020 as in force before 30th June 2026, or
 (bb) Part 2 of the Police Reform Act 2002.

honestly and reasonably held. They must deal with the case in front of them and as presented, he argued, and if the IOPC chose to present a case as meeting the criminal law test but not the civil law test the hearing should not be asked to go behind that.

15. In his written submissions however he said that the IOPC confirmed that it does not allege it was unreasonable for either officer to have formed the belief that Person A had bitten PC Humphries, spat at both officers, and pinched FPC Gosden. This he described as a concession that the officers' account of the circumstances they honestly believed themselves to be facing was not disputed, whether assessed under the civil law test or the criminal law test. As to the reasonableness of that belief, the only respect in which the two tests diverge was no longer challenged, therefore it was agreed that the distinction between them was immaterial on the facts of this case. Consequently, (he said) the IOPC position is that these proceedings will, in substance, proceed on a footing equivalent to the criminal law test. He continued

Since the civil and criminal law tests would accordingly produce the same result in this case, applying the civil law test as Regulation 3 of the 2026 Regulations requires would cause the officers no unfairness and no disadvantage. The live issue before the Panel on the use of force allegation therefore is confined to the objective question common to both tests, whether the force actually used, in the circumstances agreed, was necessary, reasonable, and proportionate. Both officers will meet that case on the evidence in the ordinary way. It is also noted that the only allegation of dishonesty or lack of integrity arising in these proceedings now concerns the alleged failure to provide a full and honest account of the use of force used against Person A following the incident. Given the concession at paragraph 8 of the IOPC's response, it is confirmed that no

honesty or integrity issue arises in relation to the officers' account of the circumstances that gave rise to the use of force itself, as that account is no longer disputed.

16. Counsel for the AA did not substantially dispute this but she did argue that the Panel must apply the old civil standard which meant that they were entitled to assess whether a particular belief was honestly and reasonably held, although she accepted Mr Yang's point about the basis upon which the AA were putting their case and accepted that the Panel should not go behind this.

The law

17. The Chair therefore looked to the ILQA for some legal direction. Mr Marshall said that in his view whilst there was some force in Mr Yang's submissions, the applicable law did not change based upon the decision of the IOPC as to which standard was engaged. The policy decision as to whether to proceed with the case is separate from the standard which the Panel had to apply according to the relevant state of the law and they should not start to write their own law. It follows that whilst it may seem rather odd, the test at the assessment stage may be different to the test at the hearing stage.

18. It follows that this is an "old law" case. Nevertheless, on the particular facts of this case (the ILQA said) the Panel should approach this case by asking themselves the question only "*Was the use of force necessary, reasonable and proportionate?*" and should focus their attention on these elements. They should remember that they were looking at the matter in the calmness of a hearing room not the dynamic situation in

which the Officers were operating. They should not go behind the basis upon which the AA was presenting their case, which was that there was no allegation that it was unreasonable for either of the Officers to have formed a belief as to any particular circumstance including (for example) that Mr A had bitten PC Humphries, spat at both officers and pinched FPC Gosden.

19. “Reasonableness” (the ILQA said) is an evidential factor in considering the honesty or genuineness of a particular stated belief or state of mind, not an additional requirement as to that state of mind. The applicable old law does not mean however that an officer’s contention that they held an honest but objectively unreasonable belief must be accepted however implausible. A highly implausible belief relied on by an officer is unlikely to be found to be honestly held. The Rapid Review Report leading to the change in the law specifically mentions this point. Ivey v Genting remains good law in deciding whether a belief is “honest” or “genuine”.
20. Furthermore, police officers will not be able to use disproportionate force. It must always be reasonable, proportionate and necessary. Finally, it must be remembered that police officers do not have to prove anything. The onus of proof remains on the AA to show that the use of force was not necessary, reasonable or proportionate, and on the ordinary civil standard of the balance of probability. The Officers do not have to prove that it was necessary, reasonable and proportionate or that they held a particular and honest belief.
21. All Counsel were asked whether they agreed with this analysis of the law and they all confirmed that they did.

Analysis of the evidence

22. The first task for the Panel therefore was to resolve the factual issues surrounding the circumstances in which physical force was used. In addition to having carefully studied the documents in the bundle the Panel heard oral evidence from a number of witnesses and were presented excerpts from the Officers' BWV equipment and CCTV recordings from the security camera at the premises where the incident occurred. The case began with a showing (without commentary) of the three video compilations of the BWV and other footage. The BWV footage also has sound recording which the CCTV does not. There are three videos lasting 8 minutes, 26 minutes, and 26 minutes respectively although there is substantial overlap and some breaks in continuity and the Panel later received considerably more assistance by watching what was described as a "linking video" which was a CCTV recording taken from a camera outside the premises which showed both incidents in their entirety and (although it had no sound) contained much clearer visual imagery than was possible from the BWV.
23. **Mr A** was the first witness and he began by confirming the contents of his witness statement. However he was unable to add very much further detail either in answer to the AA's questions or when cross-examined because he had no clear recall of the incident from the time that he was arrested until the time he was in the police station in the early hours of the morning. He did however think that he had received a kick to the head and that he had been unconscious for a while.

24. In the Panel's view, Mr A was doing his best to help them and his evidence, quietly and calmly presented, was honest and truthful to the extent that he could remember events, but his memory was clearly incomplete (he described it as "fractured" on several occasions) and they were therefore only able to place very limited weight upon his testimony. Mr A has clearly suffered a tragic and very difficult life and the Panel was grateful to him for his fortitude in attending the hearing and giving evidence but they were nevertheless bound to place more reliance on the recorded material where it differed from his account.

25. **Ms B** is Mr A's aunt and she was the second witness to give evidence. She also confirmed the truth of her statement and was anxious to add to it by way of commentary on the CCTV which she had previously seen. Ms B wanted to express her opinions as to what she thought had happened to Mr A employing her skills as a paramedic in the London Ambulance Service but was asked not to do so. The ILQA explained to the hearing that whilst she was entitled to recount what she had seen and heard with her own eyes and ears when she collected Mr A from the police station it would not be right for her to act as a sort of expert witness by commentating on things shown in the video recordings, and Ms B accepted and understood this.

26. Ms B added in her oral evidence that she had collected Mr A from the police station after his release from custody. She had wanted to take him directly to hospital but he had refused to go. She noticed that he had a large bruise to his forehead which she demonstrated with a gesture to the Panel. When asked by Mr Yang why she did not just take him there anyway, she explained that he would have walked out. She was

unable to persuade him to accept medical attention until two days later and she explained that she had remained at hospital whilst he was examined. Ms B was adamant that in her view Mr A had suffered a head injury and that there had been a period of unconsciousness although she had not of course been present at the index incident.

27. The Panel were very grateful to Ms B for her evidence and considered that she was doing her honest best to help them, but they did not wholly accept her evidence because in their view, her interpretation varied from what the panel observed across three different video perspectives of the same incident (across both officers' BWV and the CCTV footage), and from the Custody image taken upon Mr A's arrival at Custody. For example, other evidence provided to the panel did not show (or record) any obvious bruising or swelling on Mr A's forehead (although it is hard to tell as his fringe partly covers the area) this included:

- a. The Custody photo of Mr A (which the Panel asked for after hearing Ms B's evidence).
- b. The evidence of the officer in the case that subsequently interviewed him, and
- c. The written record of both the custody sergeant that booked him into Custody and the nurse that examined him in Custody.

The panel also enquired as to whether there was CCTV of the custody area to demonstrate whether bruising or swelling had been evident when Mr A left Custody, some 20 hours after his arrival, although learnt that this recording had not been obtained in the course of the investigation, and has since been deleted.

However, Ms B's evidence was exceedingly useful in that she alerted the hearing to a section of video recording (the linking video referred to earlier) which was held by

the IOPC but no-one else involved in the case seemed to know about until that point. It was later produced and shown to the Panel and they placed considerable reliance upon this new material as it contains the clearest continuous contemporary evidence of the key events.

28. Finally, the AA called **PC Ondunlami**. He also confirmed his written evidence and he explained to the Panel that the Use of Force recording form is in electronic format containing a series of drop-down dialogue boxes from which the person completing the form has to make choices. There is no scope for free narrative. He said that it is routine and permissible for one officer to complete the form for another and that these records are largely for statistical purposes. The Panel was extremely impressed by PC Ondunlami, who gave the clearest possible evidence in a calm, measured and reassuring manner, confining himself to matters within his own knowledge and being untempted to speculate at any point. The Panel also commend his integrity in drawing attention to what he thought was potential wrongdoing in the use of force by the Officers.

29. **PC Humphries** then gave evidence in his own defence. He told the Panel that he is committed to the job and has always wanted to serve in the Police. He had never faced a disciplinary panel before. On 7 September 2024 he and FPC Gosden had been called to an emergency, and he knew that it involved two people who had allegedly been held hostage by another person with a knife. He described this as a high-risk incident. There was very little available back-up from other officers, and he realised that they were effectively on their own, which is why FPC Gosden drew his taser as they knocked on the front door. Mr A came out and surrendered himself and PC Humphries cuffed him

behind his back, which he said was a necessary use of force in the circumstances. However, a cuffed prisoner can still present a danger (said the Officer) and it remained a dynamic situation. He took the Panel through his actions in taking Mr A to the police car and sitting him in the back seat behind the passenger seat and explained that this is the correct way to convey a prisoner, so that they cannot attack or distract the driver. The other officer would then sit beside them, behind the driver.

30. PC Humphries then went back to the house to speak to the two witnesses or victims for the purpose of gathering basic evidence. The plan had been to then drive Mr A to the police station but whilst he was talking to the witnesses, he heard him shout something towards the witnesses which in his (PC Humphries') mind could have amounted to witness interference. He therefore went back to the car and saw that Mr A was now sitting behind the driver's seat. He thought that Mr A was either trying to interfere with the witnesses or was trying to escape so he needed to get control of the situation which is why he told him to move over or he would drag him out. He thought that Mr A was refusing to listen to him so decided to remove him from the car but Mr A started to resist and used his bodyweight to pull away so that they both fell to the ground and a struggle ensued. Mr A started to bite him which is why PC Humphries had used two hammer blows using the fleshy part of his fist, which was the least force he could use to prevent further assault by Mr A. He also used his right elbow across Mr A's jaw to stop him biting. FPC Gosden had come to his assistance and they managed to restrain Mr A on the ground and he became calm again.

31. PC Humphries told the Panel that the decision was then taken to call for a van to convey Mr A to the police station rather than use their car and he was taken back to the vehicle and sat back where he had started in the rear seat behind the passenger seat. This was for comfort to await the arrival of the van. However Mr A immediately became aggressive and started spitting at the Officers, so he (PC Humphries) removed him from the car a second time to stop him doing so with the assistance of FPC Gosden. Mr A did not respond compliantly and instead started to fight with the Officers, and in the course of this struggle it was necessary to deliver a further hammer blow in an attempt to restrain Mr A. PC Humphries said that he suffered cuts and scrapes from the hard ground and a bite mark to his left hand. After Mr A was brought under control he asked for water, but it was not practical for one of the Officers to fetch this as he could not be trusted alone with the other Officer. At no time was Mr A unconscious (said PC Humphries) although there was a period of noisy breathing and he was turned on his side to maintain his airways.
32. Cross-examination of the Officer focused on his training and experience and he was asked repeatedly whether he thought that he had acted in accordance with this and whether, with the benefit of hindsight, he would have done anything different. PC Humphries was adamant that he would not have done. His evidence was that everything he had said and done that evening was necessary, reasonable and proportionate and he repeated that on several occasions. It was only in response to a question from the Panel that he conceded that it might have been better to explain to Mr A why he needed to move over to the other side of the car before the first extraction.

33. The Panel had considerable concerns about PC Humphries and his evidence. Whilst he was not setting out to mislead them his answers were often partial and lacking in detail and he appeared to have no insight into the effect of his own behaviour. The Officer was given ample opportunity to reflect on whether he could or should have done things differently but he chose not to take them, causing the Panel to have some concerns as to whether he is able to learn for the future.

34. Finally, the Panel heard from **FPC Gosden**. His written evidence is at pages 204, at 311 and at 321 in the bundle and he confirmed the accuracy of this material. He told them that he is 34 years old and comes from a police family. He is no longer serving due to family commitments and the need to avoid shift work but at the time of the incident he was coming to the end of his tour of duty as a response officer and was about to move to another role. He had not been rostered to be on active patrol that evening and instead had expected to be completing his paperwork but was tasked by his line manager to go with PC Humphries to the scene of an emergency call, which turned out to be the incident the Panel are concerned with. He had worked with PC Humphries before but they did not usually work as a team because they are both qualified fast response drivers who will normally be partnered with another officer. That evening, his unit was very short staffed and like PC Humphries he knew that there was no immediate backup available.

35. FPC Gosden explained that upon arrival at the scene, the Officers approached the front door of the property and that he had drawn his taser into a discreet position behind his back, which was the correct precaution given that there was a report of the use of a

knife. When Mr A came to the door he had surrendered to the police and PC Humphries had handcuffed him, although in FPC Gosden's opinion he still represented a danger. He was taken to the car and calmly agreed to be searched and FPC Gosden thought that the situation seemed calm and polite. FPC Gosden had seen blood on his arms and hand and asked about this, and in reply Mr A said that these were self-inflicted knife cuts. Mr A then slid across the back seat and started to shout "bye bye" and FPC Gosden had asked him calmly several times to come back. PC Humphries then came over to the car and FPC Gosden was able to observe him open the door and speak to Mr A although his view of events differs slightly from what is shown on the BWV because the camera was on his chest whereas for at least part of the time FPC Gosden's eye line was over the roof of the car. He saw Mr A being pulled out of the car and that he and PC Humphries went to the ground and he therefore ran around the car to help restrain the prisoner. He heard PC Humphries shout "*don't you fucking bite me*" and had therefore put his own hand on Mr A's head to prevent biting. Mr A was snarling or snoring or making loud breathing noises but in FPC Gosden's recollection he did not lose consciousness. They turned him on his side as a precaution against blockage of the airwaves.

36. Having regained control of the situation, FPC Gosden said that he and his colleague decided to call for a van and this was done. They moved Mr A back to the car to await the van and be comfortable but as soon as he sat down he started to become aggressive again and spat several times at the Officers. FPC Gosden told the Panel that they could not ignore this and both Officers immediately pulled him back out of the car. The trained procedure (he said) for a person spitting is to bend them over so that they cannot continue to do so and this is what he tried to do although Mr A started to fight and use

his bodyweight against the Officers so that he fell to the ground on top of PC Humphries. FPC Gosden said that this is the worst of all situations for a police officer because it means a total loss of control of the prisoner and is extremely dangerous, which is why he delivered two knee strikes and a number of hammer blows (the first of which missed) to free PC Humphries from Mr A's legs and as distraction strikes. In answer to the Chair's question he said that the blows landed on Mr A's back. Eventually they were able to control Mr A and he became calm again.

37. FPC Gosden was cross-examined at great length about what he would have done differently that evening and was invited on more than one occasion to comment upon or criticize PC Humphries actions. In relation to his own actions FPC Gosden was quick to accept that things could have been done differently but said that given the dynamics of the situation he had no choice but to remove Mr A from the car on the second occasion and that the force he had used was no more than required. He disputed that he pointed a finger at Mr A and took the Panel to the section in the video recording where he can clearly be seen using a "palms down" gesture to indicate to Mr A that he needed to calm down and be reasonable. He did not agree to comment on PC Humphries actions saying that he must answer for himself.

38. The Panel was extremely impressed by FPC Gosden. In contrast to PC Humphries he demonstrated a good understanding of the situation and was open and frank about whether he could have done things differently himself. Unlike PC Humphries he showed insight and understanding. The oral and recorded evidence shows that in very challenging circumstances, he was calm and collected and was making every effort to

reduce the tension with Mr A. In the Panel's opinion he was a model of how a difficult and aggressive prisoner should be treated and dealt with by a police officer.

Resolution of the facts and determination of alleged breaches

39. The Panel's responsibilities are:

- a. to maintain public confidence and reputation of the police service,
- b. to uphold high standards in policing and to deter misconduct
- c. to protect the public

This is why they spent considerable time in deliberating the evidence, reviewing the video images and considering in particular the seriousness of the underlying facts.

40. The core facts are not seriously in dispute, save for one discrete matter which this Report specifically refers to namely whether at any time Mr A lost consciousness. The real issue is what those facts amount to and in particular whether the force used by Officers (and they do not dispute using force) was necessary, reasonable and proportionate. All the other allegations in the case flow from that.

The facts found by the Panel are as follows:

41. In the early hours of the morning of 7 September 2024 the Officers were called out as an emergency to what turned out to be a domestic incident. Mr A had been at the home of his former partner and another friend and was behaving very badly. He had been drinking to excess and had allegedly threatened his friends with a knife, taken their

personal property and held them against their will. The Officers were therefore understandably cautious as they approached the property and FPC Gosden drew his taser. They knew that there was no immediate back-up available and had to contain the situation themselves. When Mr A came to the door however he surrendered himself without incident and was calm and compliant. The Officers properly handcuffed him behind his back and arrested him on suspicion of a serious offence. There is no criticism of their actions to this point.

42. Mr A was then taken to the police car and made to sit in the back of the vehicle behind the passenger seat. The plan was to take him to the police station in the car. FPC Gosden had a conversation with him in which he compliantly agreed to be searched and he was asked whether he had any injury, responding that the blood on his hands and arms was from a knife but that it was self-inflicted. The situation appeared to be calm and contained. However, he then moved over to the seat behind the driver and started to shout “*bye bye*” to his friends. FPC Gosden asked him several times to move back but he did not do so. In the meanwhile PC Humphries was still talking to the witnesses/victims of the alleged offence. He made his way over to the car and opened the rear offside passenger door where Mr A was now sitting and spoke to him. It was at this point that things started to go wrong.

43. PC Humphries immediately told Mr A to move back to the other side of the car or he would drag him out of the car. He did not do so. PC Humphries again said that if Mr A did not move as instructed he would drag him out of the car. He pointed with his finger to show where he meant. Mr A became agitated and said “*Don’t point your fucking finger*” and PC Humphries responded by taking hold of him and dragging him out of the car. The two of them fell to the floor and a fight ensued in which Mr A

struggled with the Officer and bit him. PC Humphries (on his own admission) punched Mr A twice on the head and used his elbow across his face to stop Mr A from biting. Whether the arm was across the jaw as PC Humphries says or across the throat as the AA allege is hard to say but as the Panel could see in the BWV, at least some part of his arm was across Mr A's neck. During the course of this struggle FPC Gosden properly came to the assistance of his colleague.

44. The important factual dispute the Panel had to resolve is whether at any time during this struggle Mr A became unconscious. They are unable to say one way or the other whether he was actually unconscious or suffered a medical emergency at any point because the evidence in the recordings is unclear and the Officers are not medically trained to enable a proper diagnosis, but the Panel was able to conclude that both Officers must have appreciated that there was at least a brief period of unconsciousness or medical trauma because

- (a) Mr A stopped moving
- (b) PC Humphries said that shortly afterwards Mr A “woke up” and FPC Gosden referred to him “coming to”
- (c) PC Humphries agreed that there was at least some concern about whether Mr A's airways were blocked
- (d) This is why Mr A was put into a recovery position
- (e) The Officers stood Mr A up again probably because they were worried about him.
- (e) In a piece of uncontested evidence PC Hannan recalled hearing PC Humphries saying that having reviewed his own BWV he thought that Mr A might have been knocked out for a second.

- (f) However, this was only momentary otherwise the Officers would have had to take the handcuffs off Mr A in accordance with their official guidance, which they did not do. It was not necessary or practicable to do so.
- (g) Mr A quickly became compliant and apologised for his behaviour

45. When asked about this by the Panel PC Humphries claimed not to recall mentioning a momentary period of Mr A being unresponsive to PC Hannan but they did not wholly believe him. It is the one and only part of the case for which he says he has no recall and the Panel concluded that his explanation is unlikely to be true because it is so inconsistent with the evidence. They did not however think that this makes a serious material difference to the case because if there was a medical episode it was only for a fleeting moment. There is no evidence that Mr A suffered any serious head or other injuries. If there had been then PC Odunlami (a reliable and truthful witness) would probably have noticed, as would the nurse and the custody sergeant he saw whilst in custody. PC Odunlami said (in uncontested evidence) that there were no obvious signs of injury to Mr A. He was laughing and joking with officers at the station although he continued to fluctuate in mood and the Panel noticed that he signed his custody risk assessment record with the words *"fuck you"*.

46. After calmness was restored the Officers decided not to take Mr A to the station in their car but to wait for other officers with a van. Mr A was put back on the rear seat of the car behind the passenger seat although this was only for comfort whilst they awaited the van. Mr A immediately, and without provocation, became aggressive and started to spit at the Officers and PC Humphries (who still had a hand on his shoulder) pulled

him back out of the car assisted this time by FPC Gosden. A further violent struggle ensued in which Mr A was kicking out at the Officers and pinching FPC Gosden. FPC Gosden (as he accepted) struck Mr A with his knee on two occasions and struck him several times with a hammer fist and PC Humphries struck him again until Mr A was subdued, although he later became agitated again and swore violently at the Officers. Eventually, other officers arrived. First aid was not provided for Mr A.

Panel's interpretation of the facts

47. The Panel listened carefully to the evidence and watched the video recordings many times. They concluded that there is a clear distinction between the two incidents of pulling Mr A out of the car and between the two Officers. There was no possible justification for PC Humphries to have pulled Mr A out of the car in the circumstances of the first occasion. He had been talking calmly and co-operatively with FPC Gosden. He moved over to the other side of the car to shout "bye" to his friends and he can be heard to do so on the recording. He was being uncooperative in not moving back as requested by FPC Gosden but he was not at that moment being aggressive.
48. PC Humphries actions in immediately demanding that Mr A move back or be dragged out of the car without making any attempt to explain why he must do this or to reason with him or try to persuade him was precisely the wrong response. It was an angry and confrontational approach to a prisoner who up to that point had been largely compliant (apart from moving to the wrong side of the car and remaining there). Where he should have been trying to de-escalate the situation, PC Humphries actively made it worse and provoked an angry response from Mr A. The Panel accepted that he pointed his finger to show where Mr A should go and that this had the unintended consequence of provoking Mr A further but PC Humphries then went from giving an instruction to the

immediate violent use of force without passing through any of the obvious incremental steps in between, some of which were suggested to him by Counsel. Mr A did not pose any danger at this point. He was handcuffed behind his back and was seated in a car. He was being rude but he was not directly threatening the Officers nor was he trying to escape as alleged.

49. The Panel noted that PC Humphries reasons for pulling Mr A out of the car differed in his evidence to what he said in his regulation 31 response: He told them that he was concerned to prevent Mr A interfering with witnesses (who were still at the front door of the house) or escaping but his regulation 31 notice says it was to prevent injury to Mr A himself or damage to the police vehicle. In the Panel's judgment PC Humphries did not genuinely believe that it was necessary to pull Mr A out of the car on the first occasion: He simply did not think about it. Instead this was a sudden and explosive loss of composure and self-control on his part which he unsuccessfully sought to justify afterwards. This is what the recordings and all of the available evidence shows.

50. When asked by Counsel for the AA to justify his actions PC Humphries had no sensible explanation other than to deny the allegation and when asked by the Panel if he would do anything differently he simply replied that *"it would have been better to have explained to Mr A why he needed to move"*. The Panel had expected him to say that with the benefit of hindsight he had over-reacted but that he had done so due to the pressure of the circumstances of the case and especially that there was no available backup, but he did not say this. He appeared to have no insight into why he was being criticised for his actions despite the AA's Counsel having led him through all the

training he had undertaking and the alternatives that were open to him to deploy instead of immediate force.

51. The Panel disagreed with PC Humphries. In their judgment the actions in pulling Mr A out of the car on the first occasion and the subsequent struggle on the floor was a completely unnecessary and avoidable use of force. It was a disproportionate and unreasonable use of force and completely the wrong response to the situation in which he found himself. He effectively created or provoked all the violence that immediately followed. Once the struggle started, FPC Gosden had no choice but to go to PC Humphries assistance and the Panel do not criticise him for doing so but it should not have been necessary. Hearing PC Humphries shout at Mr A not to bite him, FPC Gosden's response was a reasonable one.

52. The Panel regarded the second situation differently. The Officers thought that they had regained control of the situation and sat Mr A in the back of the car to await the arrival of a van. When he became aggressive again and started spitting at them they had little or no choice but to intervene and in the Panel's judgment it was reasonable to have done so. It was a proper decision not to have allowed that situation to develop and the Officers properly sought to bring Mr A back under control. The Panel accepted the explanation of FPC Gosden that the aim was to bring Mr A into a bent over position so that he could no longer spit at the Officers but that due to his resistance and fighting, they all went to the ground and he (Mr A) ended upon top of PC Humphries. The Officers needed to contain Mr A so that he could not continue to assault them, either by spitting or by doing anything else. Mr A became more violent and resistant to control as they did so, snarling and kicking and pinching FCP Gosden's leg. The Panel thought that the use of force on this occasion was necessary and were not satisfied that

the level of force used was disproportionate or unreasonable. Officers cannot be expected to judge these things to a nicety in the heat of the moment, and the Panel was not satisfied that they went beyond that which was a reasonable response to the situation. The knee strikes and hammer blows were no more than was reasonably necessary and were neither an excessive nor disproportionate response.

53. It follows from this that the Panel found allegations 1, 2 and 4a against PC Humphries (breach of duty as to use of force and breach of duty as to authority courtesy and respect and breach of duties and responsibilities) **proved** as against PC Humphries arising out of the first removal from the car but not proved in relation to the second removal and **not proved** against FPC Gosden in relation to either of the removals. Similarly, allegation 6 of discreditable conduct is **proved** against PC Humphries in relation to the first removal only and **not proved** against FPC Gosden. However all of these things relate to the same course of conduct and should not be regarded as cumulative. They are all in reality the same breach of professional standards.

54. The Panel was not satisfied that either Officer made a dishonest report because they accepted the evidence of PC Ondunlami that there was no obvious way of giving a more detailed account in the "Use of Force" form and were not satisfied that there was a failure to seek medical attention for Mr A since they did not think that it was clear to either Officer at the time that he had in fact suffered a serious injury requiring medical attention. Mr A himself told the hearing that he did not think at the time that he had been injured.

55. As to failure to challenge, since on their findings FPC Gosden had not fallen below the required standards there was nothing for PC Humphries to report. The Panel thought long and hard as to whether FPC Gosden ought to have subsequently reported PC

Humphries behaviour but were not satisfied that he was sufficiently aware of the circumstances in which PC Humphries came to pull Mr A out of the car to enable them to conclude that he should have challenged or reported him. They noted that FPC Gosden showed his BWV to his line manager PS Buckingham on return to the station and that this more senior officer did not see anything untoward there which needed further reporting. He was also traumatized by the incident and concerned for his own welfare.

56. The Panel therefore discharged the case against FPC Gosden without further need to consider a stage three assessment and discharged him from these proceedings.

57. The Panel then went on to assess the seriousness of the proven breaches against PC Humphries using the familiar fourfold assessment in the Guidance on Outcomes.

Culpability

58. This was deliberate and targeted action but it was not planned or considered and there was no intention to injure. The Officer's intention was to exercise physical control, although in fact it was not necessary at that stage. There was no gratuitous violence and in the Panel's opinion there were no kicks to the head as Mr A remembered. By context they now know that Mr A was a vulnerable person and he had limited ability to harm the Officers or damage the car because he was handcuffed behind his back and seated in the car. Violence should always be treated seriously but this was not persistent or deliberate bullying or harassing. It was a momentary lapse (albeit a serious lapse) of reason on the Officer's part to have violently pulled Mr A out of the car and this provoked all that followed in the first incident. Whether the second incident would have happened anyway it is hard to say but it is an obvious possibility. Once Mr A

started to fight and bite the Officer, the level of force used to control him was not unreasonable or out of proportion and was necessary to bring him back under control.

59. In the Panel's view Mr A did have vulnerabilities and PC Humphries knew or ought to have known this, at least in part, because the witness/victim Mr Archer had told him so at the front door. He said that Mr A had suffered episodes in the past "*but never this bad*". This should at least have caused PC Humphries to be alive to potential mental health issues. There were opportunities missed to get a better assessment of Mr A's condition. By contrast FPC Gosden was starting to gain some insight and had established that Mr A had self-harmed (although PC Humphries had not heard this because he was still talking to the witnesses).

60. Overall therefore the Panel assessed PC Humphries level of culpability at a high level because his loss of composure and over-reaction led directly to the first struggle on the floor. It is not at the highest level because it was not a thought through level of intention but as a police officer in a position of trust and authority, he ought to have kept a better level of composure.

Harm

61. It appeared to the Panel that Mr A did not come to any direct serious physical harm as a result of the first incident in which he was pulled out of the car although he did suffer cuts and bruises as a result of rolling around on the ground with the Officers. This was largely the consequence of his own actions in kicking out at the Officers and biting PC Humphries. He was already in a state of distress and although this was aggravated by PC Humphries shouting at him this was not to a substantial extent. The panel was

unable to conclude that Mr A suffered substantial mental distress as a result of the incident given that he had a very long history of mental ill health and personal problems. Moreover, he largely brought things upon himself by his behaviour towards his friends and his non-cooperation with the police and violence towards them.

62. There is a reputational harm to Kent police in an officer demonstrating a sudden loss of self-control and the Panel noted that the witnesses or victims of Mr A did not think that police had acted properly that evening. Seen in context it was a medium level of seriousness because the public would have some understanding that robust policing is needed in a situation where someone has held a knife up to his friends and the incident was extremely brief. The Panel know that there is a lot of public concern about the use of force by the police at present and thought that they would regard PC Humphries loss of composure and his action in unnecessarily dragging Mr A out of the car as an overly robust piece of police action but they would understand and accept what happened thereafter as being reasonable.

Mitigation

63. The breaches of professional standards found proved took place over a very brief duration and in circumstances in which a person had been arrested for an alleged violent crime. The officers were in an isolated area with no support and were concerned with an offence involving a weapon. Although the situation was calm immediately before Mr A was pulled out of the car there was clearly an overall heightened level of tension and the Panel accepted that PC Humphries was still in a residually stressful situation with a lot of unknown possibilities. They were careful about judging him from the calmness of their office conference room and tried to put themselves into his shoes. PC

Humphries had been seriously injured in a previous incident and this must have affected him. The Panel noted an active effort to release the discomfort Mr A was suffering whilst restrained and the force used when Mr A started fighting did not continue any longer than it needed to.

64. However, in the Panel's judgment PC Humphries cannot be given credit for recognising that he over-reacted or had misjudged the situation and there was no recognition or understanding that he was wrong to have lost his composure. Whereas they had expected him to say *"Yes I got that wrong but the reason why was....."* PC Humphries simply repeated that he denied the allegation. He demonstrated to the hearing no learning or insight.

Aggravation

65. In the Panels' view it ought to have been obvious to PC Humphries from what he had been told by the witnesses at the door that Mr A had some vulnerabilities and he should have been alert to his mental health. Apart from this there are no aggravating factors and they were careful not to "double count" the factors to be taken into account.

Overall conclusion

66. Taking all of these factors into account and having re-visited the over-riding purposes of these proceedings the Panel concluded that this case amounted to one of **gross misconduct** but at the lower end of the scale because this was a case of a serious error of judgment and an inappropriate over-reaction and loss of control rather than a deliberate or properly thought out course of action.

Disposal

67. The Panel reconsidered the seriousness of this case but could see no reason to alter their original assessment, apart from the fact that they had now heard personal mitigation for the Officer. They understood that this is of only very limited impact and focused instead on the circumstances of the misconduct. They listened carefully to both Counsels' submissions and need only record that they did not agree with the AA that this is a case of multiple breaches. They had already decided that this is essentially all the same breach and that continues to be correct. The Panel remained of the view that the seriousness of this case make it gross misconduct but at the lower level of the scale taking into account that it is essentially a single episode over a very short period of time.

68. This is an "old rules" case so the Panel had to start at the lowest level of sanction which meets the justice of the case. Having done so they concluded that the least action they could take in this case was to impose a **Final Written Warning of two years duration**. Although they considered dismissal of the Officer, having regard to the fact that this was a one-off incident in the context of a very stressful situation and that it took place over a very short space of time, they did not think that this is necessary and it would be a disproportionate outcome. Public confidence in the police will be supported by the

action they have decided to take but they did not think it was necessary to go beyond this to maintain that confidence.

LEARNING

It has taken some 22 Months to conclude this case that has deferred the ability for Mr A, or indeed the Officers, subject of this case, to achieve any form of closure on this matter, and for all it is recognised it has likely dominated much of their thoughts and emotions during this period.

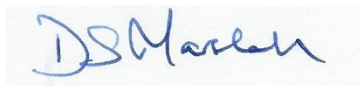
The Panel's view is that this case had merit and benefited from being tested through this process. The case presented to the panel by the AA reflected a sufficient investigation by the IOPC, although the panel felt that a couple of lines of enquiry were omitted that appeared obvious, in hindsight, would have benefited. In particular, the obtaining of Custody CCTV would have assisted in examining the concerns of both Mr A and his aunt, Ms B, who it seems formally expressed their concern about the extent of Mr A's injuries within a very short time after the event.

The Panel would like the AA / IOPC to reflect on the necessity to create so many allegations and multiple breaches of different Standards of Professional Behaviour in what in reality was a fairly narrow set of issues. This case was focussed on the necessity, proportionality and justification to use force and in essence followed two events in very close succession (extraction from the police car on two occasions, together with the control measures used thereafter). Indeed, the IOPC investigation partitioned the presentation into 'incident 1' and 'incident 2'. In the Panel's view it would have been more helpful prosecuting the main issues as one breach of the standards (principally the central issue of the use of force) and this would

not have detracted from the seriousness of the matters under consideration. In our view, taking such a broad approach tended to dilute rather than reinforce the AA case by seeking to ‘double-down’ on different breaches of standards arising from the same behaviours.

Moreover, the hearing has found itself under considerable pressure to complete the hearing within the scheduled five days, after the whole of the first day was given over to resolve a preliminary legal issue raised by the Officers’ Counsel about IOPC policy (paras 8-16, above). In the Panel’s view this was foreseeable and avoidable, both on the part of the Officers’ Counsel in raising the matter (having had opportunity to do so before the hearing), and by the IOPC in following their own policy prior to presentation of the case. Nevertheless, we are grateful for all Counsel and the IOPC members at the hearing for cooperating to recover the matter and to reach agreement with the support of the LQA, else this may have delayed proceedings even further. The benefit of having examined this particular issue is that the IOPC, in such ‘transitional’ cases, now has the opportunity to ensure that such arguments do not arise across other ‘use of force’ cases nationally.

Drafted by



Derek Marshall LLB MCI Arb ILQA
College Chambers, Southampton

Signed and approved by



ACO Andy Pritchard

Chair

Approved by

Ann Stow, Independent Panel Member

Tadz Kluczynski, Independent Panel Member