

# Police Officer Convicted Over Assault

A NSW police officer has been sentenced to a 15-month section 9 good behaviour bond – which comes with a criminal conviction – over the assault of a man being held in custody at [Dee Why police](#) station on Anzac Day last year. The incident is yet another example of ongoing police brutality and abuse of powers in the state.

Last Friday, Leading Senior Constable Shaun Moylan was found guilty of two assault charges in Sydney's Downing Centre Local Court. The 41-year-old officer [was captured on a CCTV camera](#) violently pushing Mark Adamski twice in a charge cell.

Mr Adamski was affected by alcohol when he was arrested hours earlier over [an alleged domestic assault](#) in Narrabeen. The 32-year-old – who owns a recruitment agency – was being held in the cell when he and Moylan had a heated verbal exchange.

## **Evidence at the hearing**

During the defended hearing, CCTV footage was played showing Moylan open the cell door and confront Adamski, before pushing him in the chest. The constable leaves, the two continue to argue and then Moylan re-enters the cell pushing Adamski once more, this time in the throat.

The second push resulted in Adamski's head slamming against the back of the cell wall.

After the assault, Adamski pleaded with police to call an ambulance, but no medical attention was offered. On being released, Adamski was forced to catch a bus to Manly Hospital, where he was treated for injuries, which included a hematoma on the back of his head.

At the initial court hearing in May, Moylan claimed he was innocent, despite the evidence contained in the CCTV footage.

His criminal defence barrister cross-examined Adamski to the effect that he had “downplayed” his role in the incident and “exaggerated” Moylan’s.

However, other police officers on duty at the time backed up Adamski’s version of events.

Senior Constable Daniel Gill told the court that Moylan had used “significant” force and “cupped his hand” around Adamski’s throat during the second push. He also confirmed that Adamski had been requesting medical help, and that none was forthcoming.

Another officer working at the station that night, Constable Brendon Kitchener, testified that the use of force had disturbed him to the point that he reported it to other colleagues.

At a defended hearing in July, it came to light that Moylan had joined Constable Zoe Barrett at the station desk following the assault and remarked, [“I shouldn’t have gone in there.”](#)

Barrett said that Moylan, who was the acting supervisor at the time, went to the custody area to help another officer. She said she could hear loud noises coming from the “area and then it went quiet.”

The officer also told the court that she looked up at a monitor screen and saw a man falling backwards in the cell with Moylan standing at the open door.

On the following day, Constable Moylan – who’d been suspended from duties on full pay since July 2015 – claimed he was acting in self-defence and gave his version of the events.

Moylan testified that on the night of the incident, Adamski had been yelling obscenities, so he decided “as a courtesy” to

open the cell door to speak with him and calm him down. He claimed that this method had worked for him in the past.

He said that upon doing so, he immediately felt threatened, claiming that Adamski clenched a fist and said, "I will fucking have you." At this point, the constable said he thought he was about to be attacked.

But last Friday at Downing Centre Local Court, Magistrate Susan McIntyre dismissed Moylan's self-defence claim as "almost absurd." She said the CCTV footage shows that Adamski didn't move towards the constable "to any significant extent" and remained "well within the confines of the cell."

She found him guilty of the assault occasioning actual bodily harm and common assault.

## **Sentencing**

During the ensuing sentencing hearing, officer Moylan's barrister submitted that his client had already paid a "heavy price" over the incident, and that any criminal record would impact on his future employment. He argued the constable should be given a Section 10 (now a [section 10 dismissal](#) or [conditional release order](#)), which would mean avoiding a criminal record.

However, Magistrate McIntyre was unsympathetic, noting that the officer was "in a special position" and should not have abused his power. She sentenced him to a Section 9 bond, which carries a conviction.

As for Mark Adamski, he was found not guilty of all charges brought against him.

## **Police brutality**

Of course, this is not the first case involving an abuse of powers by NSW police.

There's the high profile case of [Jamie Jackson Reed](#), who was restrained by police at the 2013 Gay and Lesbian Mardi Gras. In 2014, Magistrate Michael Barko found that police had used excessive force when apprehending the 18-year-old man.

And just last month, English backpacker Liam Monte [announced he was suing NSW police](#) over an institutional-cover up of his alleged assault, which involved an off-duty police officer on April 19 2013. After a slight altercation in a McDonald's on George Street in Sydney's CBD, several men followed Monte to the entrance of the restaurant and one, off-duty police officer Osvaldo Painemilla produced a badge and said he was under arrest.

Believing the badge to be a fake, Monte grabbed it and left. Painemilla's friends then pursued Monte up George Street and pulled him out of a taxi. A bus driver who witnessed the assault said the backpacker was struck about ten times in the face as he lay on the ground.

Monte was taken to hospital suffering severe facial bruising and a suspected fractured eye socket.

After being discharged from hospital, detectives from the Rocks police station arrived at Monte's hostel and arrested him for stealing.

On hearing the case in 2014, Magistrate Michael Barnes described it as an abuse of process. He concluded that police had brought the prosecution against Monte to "somehow negate the suggestion that the force applied" to him "was otherwise completely unjustifiable."

Magistrate Barnes found the evidence supported the police charges of stealing the badge and gave Monte a non conviction order, which means he escaped a criminal record.