

# Police withdrawal of prosecution concerning fatal motorcycle accident

- 1. At about 5.25pm on 29 January 2019, Mr Tony Parahi was riding his motorcycle south on State Highway 36 adjacent to Lake Rotorua. Ahead of Mr Parahi was a local farm worker, Mr Z, who was driving a 12-metre-long tractor and trailer in the same direction. Mr Z pulled over to his left to let two cars pass before he turned right, across the road to enter a paddock, into the path of Mr Parahi on his motorcycle.
- 2. Police reconstructions later indicated that in trying to avoid a collision with the tractor and trailer, Mr Parahi braked heavily and lost control of his motorcycle. He was thrown onto the roadway, the motorcycle vaulted in the air and landed on him. Members of the public assisted Mr Parahi but he died at the scene as result of chest and abdominal injuries.
- 3. There were witnesses in cars travelling towards Mr Parahi who saw the tractor and trailer pulling across the road and what was most likely the motorcycle and its black pannier bags in the air above the trailer.
- 4. Police investigated the crash and subsequently charged Mr Z with careless driving causing death. On 19 May 2020, after the matter had been before the Court for 10 months, a Police prosecutor withdrew the charge against Mr Z.
- 5. A Coronial Inquest<sup>2</sup> into Mr Parahi's death was held in May 2021. The Coroner found the death was an avoidable accident, in that Mr Z should have waited for the motorcycle to pass.
- 6. In December 2021, we received a complaint from a member of Mr Parahi's whānau regarding the quality of the Police investigation, the decision to withdraw the charge against Mr Z, and poor communication. They believed there was bias by Police against Mr Parahi. The Authority conducted an independent investigation.

<sup>&</sup>lt;sup>1</sup> Section 38 of the Land Transport Act 1998, punishable by up to 3 months prison or a fine up to \$4,500, and disqualified from driving for 6 months.

<sup>&</sup>lt;sup>2</sup> A coroner holds a court hearing to review pertinent evidence relating to a death to discover what lessons can be learnt.

## The Authority's Findings

#### Issue 1: Did Police undertake a quality crash investigation?

There were shortfalls in the Police crash investigation, but it was of sufficient quality to charge Mr Z.

# Issue 2: Did Police follow proper process and reasoning when withdrawing the charge against Mr Z?

The process of withdrawing the charge was poor.

Officer D's decision to withdraw the charge is inexplicable, suggesting a fixed view which was impervious to persuasion.

In our view the matter should have been decided in court by a Judge.

#### Issue 3: Was there bias against Mr Parahi by Police?

We are unable to reach a view on bias by Police, except to observe that the withdrawal of the prosecution case against Mr Z was made without clear, and documented reasons.

#### Issue 4: Was Police communication with Mr Parahi's whānau adequate?

Police communication with Mr Parahi's whānau was poor.

#### ISSUE 1: DID POLICE UNDERTAKE A QUALITY CRASH INVESTIGATION?

#### Which officers were involved in the Police crash investigation?

- 7. On the day of the accident, Officer A, a Constable who specialises in traffic matters, promptly arrived at the crash scene and obtained details from witnesses. He approached Mr Z who told him he had seen the motorcyclist further down the road but did not realise he had fallen off. It was then established the motorcycle had not hit the tractor or trailer. Another Constable examined the scene.
- 8. Two days after the accident, a Police crash analyst performed skid/friction testing, and the following day another Constable, Officer B, who is another crash analyst, went to the scene and forensically mapped the area.
- 9. Officers interviewed witnesses a week after the crash, and following Mr Z's interview, Officer A had to contact him again to clarify some aspects. A Police review later found the interviewing of witnesses and Mr Z was "not ideal". We agree. The interviewing of witnesses, including Mr Z, was sub-standard.
- 10. The crash analysis involved four different officers, the first officer on the day of the crash, a second two days after to take measurements, and then Officer B who completed the full analysis and submitted the report, which was then peer reviewed (as standard practice) by Officer C.

Police later acknowledged at the Coronial Inquest that having three officers involved initially is not best practice.

#### What did the Police Crash Analysis Report find?

- 11. Officer B drafted the Police Crash Analysis Report (the Crash Report).
- 12. In the Crash Report Mr Parahi's motorcycle is described as "high siding", which means it loses grip with the road surface and then regains it suddenly, throwing the rider forward off the motorcycle and causing the motorcycle to flip over. The report finds:

"Mr [Z] has misjudged the distance between himself and the approaching motorcycle and made the decision to turn into the driveway. Considering he was about to block the road for between 6 to 11 seconds, Mr [Z] should have waited until the road was clear ... Mr Parahi has responded by going into an emergency braking manoeuvre but had lost control of the motorcycle."

#### 13. The Crash Report states:

- a) There were no mechanical issues, no road or weather issues, no alcohol or drugs involved.
- b) Mr Parahi was not speeding (he was deemed to be travelling at about 80kph in a 100kph zone) and was no more than 217 metres from the tractor and trailer when it turned across the road.
- c) Mr Parahi's 2006 Harley Davidson<sup>3</sup> rear tyre tread was less than the 1.5mm required for warrant of fitness standards.
  - We note the Coroner later found this was not a factor in the accident.
- d) Mr Parahi did not hold a motorcycle license. Two weeks prior to the accident, his car licence had been suspended for three months for speeding and excess demerit points. He had several speeding infringements as well as convictions for drink driving.
  - <u>We note</u> speed and alcohol were not factors in the crash. The opinion of the Coroner's expert was that a licensed and potentially more skilled rider could also lose control of the motorcycle in the same circumstances.
- e) Mr Z had a restricted licence suitable for driving the tractor and had 33 infringement notices for licence and registration breaches and seven for speeding.
- f) Mr Z told Police he checked the mirrors, physically turning his head and body and looked behind him to check the road was clear. However, on inspection the tractors' "left hand wing mirror was damaged and missing the actual mirror. The right mirror was angled towards the cabin". Mr Z said he saw the motorcycle, but estimated it was 1.5kms away.

<sup>&</sup>lt;sup>3</sup> Not fitted with ABS (Anti-lock braking system).

g) Mr Parahi was trying to overtake the tractor and trailer, and this is considered a contributing factor to the crash.

<u>We note</u> the Coroner did not believe Mr Parahi was overtaking and disagrees this was a contributing factor.

#### How was the decision made to charge Mr Z?

- 14. A charging panel, consisting of various members of Police<sup>4</sup>, met on or about 18 July 2019 to discuss whether to charge Mr Z. No meeting notes were made. Officer D, a Sergeant and Police Prosecutor, told us that at the meeting he was unsure about how far back and how fast Mr Parahi was going, so he asked for a day to consider whether to charge Mr Z.
- 15. Later that day, Officer D learned that the District Road Policing Manager, an Inspector, had decided to charge Mr Z with careless driving causing the death of Mr Parahi. This decision was made very close to the six-month statute of limitations cut-off date for charging Mr Z.<sup>5</sup> The charge was filed on 19 July 2019.
- 16. The District Road Policing Manager had earlier identified deficiencies across serious traffic investigations and around this time created a role for oversight within that domain. Officer E, a Detective Sergeant, was appointed to oversee serious crash investigations and work closely with staff of the Bay of Plenty Serious Crash Unit.

#### FINDING ON ISSUE 1

There were shortfalls in the Police crash investigation, but it was of sufficient quality to charge Mr Z.

# ISSUE 2: DID POLICE FOLLOW PROPER PROCESS AND REASONING WHEN WITHDRAWING THE CHARGE AGAINST MR Z?

#### Officer D requested a legal review after Mr Z was charged?

- 17. When the file arrived at Police prosecutions, Officer D sent a report to his supervisor, the District Prosecution Manager, Officer F, asking for a legal review by Police National Headquarters (PNHQ).
- 18. From Police correspondence it is clear that a reply was provided to Officer D, via Officer F. This did not result in the charge against Mr Z being withdrawn or altered.

<sup>&</sup>lt;sup>4</sup> The charging panel consisted of the District Road Policing Manager, Officer A (officer in charge of the case), Officer B (crash analyst), Officer C (reviewed the crash report), Officer D and another colleague from prosecutions.

<sup>&</sup>lt;sup>5</sup> Section 25 of the Criminal Procedure Act 2011.

#### How did Mr Z respond to the charge?

19. Mr Z entered a plea of not guilty to the charge and his lawyer engaged a former Police crash analyst, Mr W, to review the Crash Report and do his own crash analysis. Mr W's written assessment, dated October 2019, concluded:

"The actions of Mr Parahi have to be considered as a factor in this crash as it is my opinion that this crash has been as a result of his actions that have caused him to lose control of his Harley Davidson motorcycle".

- 20. Mr W was critical of the Crash Report, including:
  - a) Considering the condition of the motorcycle's rear tyre and Mr Parahi not having a motorcycle licence as factors in the crash.
  - b) Challenging how far back Mr Parahi was when Mr Z started to turn.
  - c) Reaching different results in time and distance studies.
  - d) Police failed to consider the position of the sun, and the physical address is wrongly recorded in parts of the report.

#### Officer D requested a second legal review?

- 21. Police correspondence confirms that, after receiving the assessment by Mr W, Officer D requested a second legal review from PNHQ through his supervisor, Officer F.
- 22. Again, there was no withdrawal or altering of the charge against Mr Z, which was by this stage set down for a defended hearing.
- 23. In cases where Police and a defence witness have differing expert opinions, the Court will generally expect the experts to confer, to establish what aspects of the evidence may be in agreement, and what is in issue. Such an expert conference enables a court hearing to proceed more efficiently.

#### Why did the expert conference not happen?

- 24. Despite efforts by Police, Mr W proved difficult to engage and the expert conference did not take place.
- 25. About six months later, the Judge directed the experts to meet. On 15 May 2020, Officer D emailed Officer E stating<sup>6</sup>:

"The experts are to meet and file a joint Memo to the court in Rotorua by 1pm on Monday 25/05/20. The Memo is to include issues that are accepted as agreed

<sup>&</sup>lt;sup>6</sup> Copied to Officer A, Officer B, and Officer C.

and those that are disputed. ... In terms of the expert meeting, I will leave that up to you and your team."

26. On 19 May 2020, before the expert conference could occur, the charge was withdrawn by Officer D.

#### Why did Officer D withdraw the charge?

- 27. The reason given to the Judge for withdrawal by Officer D was, "the facts will not support the premise of a reasonable prospect of conviction".
- 28. Officer D later told us he:

"found it quite difficult based on the police investigation, specialist crash report and all the facets around it to get a good feel for whether it was careless or not."

29. Officer D also agreed that no record was made as to his wider reasoning or actions in withdrawing the charge and he acknowledged this was a departure from best practice.

#### How was the charge withdrawn?

- 30. On 18 May 2020, Officer D informed Officer E that the Police Prosecution Service (PPS) would be withdrawing the charge.
- 31. The following day, Officer D filed an application with the Rotorua District Court to withdraw the charge.<sup>7</sup>
- 32. On 19 May 2020, the Judge heard the matter in a brief meeting by video link, with Officer D and Mr Z's lawyer. This was about a week before the scheduled Judge-alone trial. Police offered no evidence, so the Judge had no option but to dismiss the charge.<sup>8</sup>

#### Was there wider input in the decision to withdraw the charge?

33. Following this, and after being informed, the newly appointed officer in charge of the Bay of Plenty Serious Crash Unit, (Officer E), emailed the District Road Policing Manager, Officer A and the crash analysts explaining the reasons why the case was withdrawn:

"After lengthy discussions with PPS, the independent expert, O/C and analyst, it has been decided the charge will be withdrawn.

There are potentially fatal and irreparable flaws within the investigation which means there is not a reasonable prospect of conviction in line with the Solicitor General's Guidelines for Prosecution."

<sup>&</sup>lt;sup>7</sup> Under section 146 of the Criminal Procedure Act 2011.

<sup>&</sup>lt;sup>8</sup> Mr Z's lawyer requested dismissal of the charge under section 147 of the Criminal Procedure Act 2011.

- 34. During our investigation in 2023, Officer E told us he regretted sending that email as the decision to withdraw was made solely by Police prosecutions. He said that due to him being new to the role, he did not have the knowledge or experience to challenge the Prosecutor's decision.
- 35. Officer E, and the District Road Policing Manager, both told us they were disappointed the charge was withdrawn and that they were not involved in the decision.
- 36. We find it inexplicable why Officer D withdrew the charge (even considering his reasoning in paragraph 27). His position differed from that of the charging panel and apparently Police internal advice. In the absence of any explanation, the inference that Officer D had a fixed view and was impervious to persuasion is unavoidable.

#### Was there adequate oversight of Officer D's decision?

- 37. Officer D told us his supervisor, Officer F, agreed at the time with the charge being withdrawn.
- 38. Officer F told us that he recalls discussing the withdrawal of the charge with Officer D, saying it was due to speed concerns and aspects of the analysis not being to the proper standard. However, there is no record of this discussion or documentation of prior engagement with the other Police staff, or the whānau of Mr Parahi.
- 39. Officer F acknowledged that no record of the discussion is available, even though he said his usual practice is to keep an electronic diary note of such meetings. This is acknowledged as a departure from best practice.
- 40. We would go further. In our view it is very poor practice not to keep a comprehensive record of the reasons for such an important decision.
- 41. We acknowledge the District Road Policing Manager has since implemented a process where road deaths are referred to a Crown Solicitor for their legal expertise.

#### What did the Coroner find?

- 42. In May 2021, the Coroner held an inquest and made findings on the facts of Mr Parahi's death.

  A Coroner's Inquest is not determinative of criminal or civil liability.9
- 43. Due to the differing expert reports from the Police and Mr W, the Coroner's office engaged an expert in traffic crash analysis, Dr X. Dr X provided a detailed report on 15 December 2020, and helped the Coroner with technical issues during the inquest. The Coroner also heard evidence from Police experts, Mr W (Mr Z's expert), Mr Z and other witnesses.
- 44. The Coroner found Mr Parahi's death was avoidable, Mr Z did not check behind him thoroughly and misjudged Mr Parahi's location when he pulled out onto the road. The Coroner recorded:

"Mr Parahi crashed when trying to avoid a collision with the trailer unit because the tractor driver misjudged the distance between the vehicles. There was

<sup>&</sup>lt;sup>9</sup> Under the Coroners Act 2006.

insufficient time for the tractor driver to have undertaken his road crossing manoeuvre."

- 45. The Coroner also made the following comments about the Police:
  - The Police Serious Crash Unit that analysed the scene included four different officers. The Police accepted this was not best practice in terms of continuity and may have resulted in gaps in their analysis.
  - The Police officers involved in this investigation do not have any specific friction testing training. Police training in friction testing would be useful to improve recognition of unusual results.
- 46. We note that despite inconsistencies or areas missed in the Crash Report, the evidence from the Coroner's expert tends to support Officer B's crash analysis.

#### **FINDINGS ON ISSUE 2**

The process of withdrawing the charge was poor.

Officer D's decision to withdraw the charge is inexplicable, suggesting a fixed view which was impervious to persuasion.

In our view the matter should have been decided in court by a Judge.

#### ISSUE 3: WAS THERE BIAS AGAINST MR PARAHI BY POLICE?

- 47. Mr Parahi's whānau suggested there was bias in the way Police dealt with the crash. In their view, "had Mr Parahi not been a large, tattooed, Māori male riding a Harley Davidson, and had he not struck a farm worker", Police would have dealt with the matter differently. They believe this led to some blame being placed on Mr Parahi and to Mr Z avoiding full prosecution. There was also potential for bias in relation to Mr Parahi's previous driving history (see paragraph 13 d).
- 48. Whānau believe the Judge should have had the opportunity to assess the case and make findings. Fearing Police would further blame Mr Parahi, the whānau appointed a lawyer to represent them to ensure Mr Parahi's mana was upheld.
- 49. We have not seen any direct evidence of bias.
- 50. We consider the crash investigation (scene examination and statement taking) was not completed using an ideal process and timeframe, however, it was sufficient for a charging panel to charge Mr Z and a prosecution case to be assembled.
- 51. The Police prosecutor, Officer D, appears to have been against a charge from his first involvement. Initially, and then again when Mr Z's lawyer submitted a contrary expert opinion, Officer D sought legal opinions. The replies ensured an ongoing prosecution.

- 52. Close to the trial date, Officer D passed on a Judge's direction for experts to hold a conference. He then withdrew the charge without consultation with the officer in charge of the case (Officer A), the crash analysts or Mr Parahi's whānau. With no record of Officer D discussing this with his supervisor (as required), we are uncertain that this discussion occurred.
- 53. For several years Police staff have had strong direction and training around bias, conscious and unconscious. The concept is not new to them. While there is no direct evidence of bias, Officer D's actions are inexplicable, and we have been critical of the process by which the charge was withdrawn (see Issue 2).

#### FINDING ON ISSUE 3

We have been unable to reach a view on bias by Police, except to observe that the withdrawal of the charge against Mr Z was made without appropriate process or a clear and documented reason.

#### ISSUE 4: WAS POLICE COMMUNICATION WITH MR PARAHI'S WHĀNAU ADEQUATE?

- 54. Officer A was the case officer in charge, whose responsibilities included whānau liaison. On 18 July 2019, he phoned Ms Y to inform her that Mr Z had been charged with careless driving causing death. This was an appropriate communication by Police with Mr Parahi's whānau.
- 55. In other respects, the communication with Mr Parahi's whānau was poor.

#### When was Mr Parahi's whānau told the charge was dismissed?

56. On 19 May 2020, the Judge dismissed the charge and Officer D emailed Officer F, Officer E and Officer A at 12.41pm outlining:

"consideration should be given as to contact with the deceased's family without delay."

- 57. Mr Parahi's whānau have rights under the Victims' Rights Act 2002.<sup>10</sup> Under the Act, Ms Y must, as soon as practicable, be given information about changes to any charges laid.<sup>11</sup> Section 7 of the Act also requires the victim (in this case Ms Y) be treated with courtesy and compassion.
- 58. Officer A, as the whānau liaison, was tasked with communicating the information. The Judge dismissed the case on Tuesday 19 May 2020, however Officer A did not phone Ms Y and tell her until six days later, on the following Monday 25 May. Officer A told us he had three days off during this time which delayed the communication. We consider this delay to have been unacceptable. The communication should have been prioritised and re-assigned if Officer A was not available. Officer D also acknowledged to us that he should have spoken to the whānau.

<sup>&</sup>lt;sup>10</sup> See the definition of a victim under section 4 victim (a) (iv).

<sup>&</sup>lt;sup>11</sup> Under section 12 1b, "given information about changes to the charges laid" as "as soon as practicable".

#### What was Ms Y told about the charge being dismissed?

- 59. On 25 May 2020, Officer A phoned Ms Y. The conversation was recorded. Officer A told her the charge was withdrawn because there was insufficient evidence, which the Judge and lawyers agreed with.
- 60. Officer A explained to Ms Y:
  - Mr Z's lawyer had been arguing about the timings and speed of the crash.
  - The Police crash analysts were arguing about what happened.
  - Legal services had "come back neutral" about what had happened.
  - The Police Prosecutor, Mr Z's lawyer and the Judge had sat down together and agreed there was probably not enough evidence to prove beyond reasonable doubt that Mr Z was careless in his actions.
- 61. Officer A noted in the Police database that Ms Y was not happy with the outcome and had asked how to appeal it.
- 62. We understand that for Officer A, this was a difficult conversation to have with Ms Y but the information he provided was misleading. Officer A told us he had little understanding of court procedures and thought he was saying the right thing. However, it was not correct to say the legal reviews were "neutral" when we understand, from Police correspondence, they were not. Officer A also gave the impression that the Judge had considered the evidence in deciding to dismiss the charge, however this had not happened.

#### **FINDING ON ISSUE 4**

Police communication with Mr Parahi's whānau was poor.

### **Subsequent Police Action**

- 63. In June 2022, The District Road Policing Manager acknowledged and apologised for errors in the Police investigation. He outlined the following changes by Police:
  - a) All files are entered into an Incident Management Tool which enables improved management and oversight of files.
  - b) Case milestones have also been introduced to ensure consistent decision making.
  - c) Learnings about the documentation of charging panel decisions.
  - d) Utilising the Crown Prosecutor for matters with complexity and/or seriousness.
  - e) Learnings on how Police inform others about decisions.



Judge Kenneth Johnston KC

Chair Independent Police Conduct Authority

7 November 2023

IPCA: 21-10229

# **Appendix – Laws and Policies**

#### VICTIMS' RIGHTS AND PRINCIPLES RELATING TO CRIMINAL INVESTIGATIONS

64. Any person who is a victim of an offence has certain legal rights regarding its criminal investigation and prosecution.

#### Victims' Rights Act 2002

- 65. Section 4 of the Act defines a victim as including an immediate family member of a person who has been killed as a result of another person's offending, unless that family member is the offender.
- 66. Section 7 relates to the treatment of victims. Any person<sup>12</sup> dealing with a victim should:
  - a) treat the victim with courtesy and compassion; and
  - b) respect the victim's dignity and privacy.
- 67. Section 12 relates to victims' rights to information about proceedings. It provides:
  - A victim must, as soon as practicable, be given information by investigating authorities or, as the case requires, by members of court staff, or the prosecutor, about the following matters:
    - a) the progress of the investigation of the offence:
    - b) the charges laid or reasons for not laying charges, and all changes to the charges laid:
    - c) the victim's role as a witness in the prosecution of the offence:
      - the possibility (if any) of the court making an order prohibiting the publication of identifying information about the victim, and the steps that the victim may take in relation to the making of that order:
    - d) the date and place of each event listed in subsection (2):13
    - e) the outcome of the prosecution of the offence (and of any proceedings on appeal)"

#### SOLICITOR-GENERAL'S PROSECUTION GUIDELINES 2013

68. The decision to prosecute is outlined in Section 5 of the guideline. It states:

#### "The Test for Prosecution

<sup>&</sup>lt;sup>12</sup> For example, a judicial officer, lawyer, member of court staff, or Police employee.

<sup>&</sup>lt;sup>13</sup> Any court appearance, including trials, preliminary hearings and appeals, and sentencing.

- 5.1 Prosecutions ought to be initiated or continued only where the prosecutor is satisfied that the Test for Prosecution is met. The Test for Prosecution is met if:
- 5.1.1 The evidence which can be adduced in Court is sufficient to provide a reasonable prospect of conviction the Evidential Test; and
- 5.1.2 Prosecution is required in the public interest the Public Interest Test.
- 5.2 Each aspect of the test must be separately considered and satisfied before a decision to prosecute can be taken. The Evidential Test must be satisfied before the Public Interest Test is considered. The prosecutor must analyse and evaluate all of the evidence and information in a thorough and critical manner.

#### The Evidential Test

- 5.3 A reasonable prospect of conviction exists if, in relation to an identifiable person (whether natural or legal), there is credible evidence which the prosecution can adduce before a court and upon which evidence an impartial jury (or Judge), properly directed in accordance with the law, could reasonably be expected to be satisfied beyond reasonable doubt that the individual who is prosecuted has committed a criminal offence.
- 5.4 It is necessary that each element of this definition be fully examined when considering the evidential test in each particular case.

#### Credible evidence

This means evidence which is capable of belief. It may be necessary to question a witness before coming to a decision as to whether the evidence of that witness could be accepted as credible. It may be that a witness is plainly at risk of being so discredited that no Court could safely rely on his/her evidence. In such a case it may be concluded that there is, having regard to all the evidence, no reasonable prospect of obtaining a conviction. If, however, it is judged that a Court in all the circumstances of the case could reasonably rely on the evidence of a witness, notwithstanding any particular difficulties, then such evidence is credible and should be taken into account.

Prosecutors may be required to make an assessment of the quality of the evidence. Where there are substantial concerns as to the credibility of essential evidence, criminal proceedings may not be appropriate as the evidential test may not be capable of being met.

Where there are credibility issues, prosecutors must look closely at the evidence when deciding if there is a reasonable prospect of conviction.

•••

#### Could reasonably be expected to be satisfied

What is required by the evidential test is that there is an objectively reasonable prospect of a conviction on the evidence. The apparent cogency and credibility of evidence is not a mathematical science, but rather a matter of judgment for the prosecutor. In forming his or her judgment the prosecutor shall endeavour to anticipate and evaluate likely defences.

#### Beyond reasonable doubt

The evidence available to the prosecutor must be capable of reaching the high standard of proof required by the criminal law.

#### Commission of a criminal offence

This requires that careful analysis is made of the law in order to identify what offence or offences may have been committed and to consider the evidence against each of the ingredients which establish the particular offence."

## **About the Authority**

#### WHO IS THE INDEPENDENT POLICE CONDUCT AUTHORITY?

The Independent Police Conduct Authority is an independent body set up by Parliament to provide civilian oversight of Police conduct.

We are not part of the Police – the law requires us to be fully independent. The Authority is overseen by a Board, which is chaired by Judge Kenneth Johnston KC.

Being independent means that the Authority makes its own findings based on the facts and the law. We do not answer to the Police, the Government or anyone else over those findings. In this way, our independence is similar to that of a Court.

The Authority employs highly experienced staff who have worked in a range of law enforcement and related roles in New Zealand and overseas.

#### WHAT ARE THE AUTHORITY'S FUNCTIONS?

Under the Independent Police Conduct Authority Act 1988, the Authority receives and may choose to investigate:

- complaints alleging misconduct or neglect of duty by Police;
- complaints about Police practices, policies and procedures affecting the complainant in a personal capacity;
- notifications of incidents in which Police actions have caused or appear to have caused death or serious bodily harm; and
- referrals by Police under a Memorandum of Understanding between the Authority and Police, which covers instances of potential reputational risk to Police (including serious offending by a Police officer or Police actions that may have an element of corruption).

The Authority's investigation may include visiting the scene of the incident, interviewing the officers involved and any witnesses, and reviewing evidence from the Police's investigation.

On completion of an investigation, the Authority must form an opinion about the Police conduct, policy, practice or procedure which was the subject of the complaint. The Authority may make recommendations to the Commissioner.

#### THIS REPORT

This report is the result of the work of a multi-disciplinary team. At significant points in the investigation itself and in the preparation of the report, the Authority conducted audits of both process and content.



Mana Whanonga Pirihimana Motuhake

PO Box 25221, Wellington 6140 Freephone 0800 503 728 www.ipca.govt.nz