



**IPCA**

Independent Police  
Conduct Authority

Mana Whanonga Pirihimana Motuhake

## **Police Investigative Interviewing and the Complex Investigation Phased Engagement Model (CIPEM)**

*May 2025*

---

## Contents

<b>Summary of the report.....</b>	<b>3</b>
<b>Introduction .....</b>	<b>5</b>
What was the scope of the Authority’s inquiry? .....	5
How did we conduct our inquiry?.....	6
<b>Police interviewing in New Zealand .....</b>	<b>7</b>
What are the relevant interviewing models? .....	7
What state were New Zealand Police interviewing skills in when CIPEM was introduced? .....	10
<b>The development of CIPEM.....</b>	<b>12</b>
Where did CIPEM come from? .....	12
What is CIPEM?.....	13
Was CIPEM approved and vetted before it began to be used? .....	16
<b>CIPEM in practice .....</b>	<b>18</b>
How was CIPEM introduced? .....	18
What problems did we identify in the cases we reviewed and were they caused by CIPEM? .....	25
To what extent can these problems be attributed to Detective Superintendent Fitzgerald? .....	35
<b>Police response to the criticisms .....</b>	<b>38</b>
What happened after the High Court Judgment regarding Case 4?.....	38
What was the outcome of the review of CIPEM?.....	39
What does the Police review of investigative interviewing recommend?.....	41
<b>Recommendation.....</b>	<b>43</b>

## Summary of the report

1. The Authority decided to investigate the Police's use of the CIPEM (Complex Investigation Phased Engagement Model) interviewing method after a High Court judgment ruled that evidence in a murder case was inadmissible in September 2021 and concerns were subsequently raised in the media. We also received three complaints about issues discussed in the judgment.
2. We considered the context in which Detective Superintendent Tom Fitzgerald developed CIPEM and began training it in 2018. While New Zealand Police had adopted the PEACE model for interviewing from about 2007, we found that by the time CIPEM came along, interviewing skills were generally in a poor state and officers lacked confidence in their ability to conduct an effective interview. In particular, there was a need for better training in the area of suspect interviews. CIPEM was a laudable attempt to bridge the gap.
3. CIPEM had a heavy focus on engagement skills and building rapport. All the officers we spoke to agreed that this was valuable, and that Police need to be trained in this from an early stage because engagement feeds into and affects many different parts of policing. We found this aspect of the model was consistent with PEACE and international best practice.
4. However, CIPEM's implementation fell short in several respects. While it is clear that the Police Executive were aware of and endorsed the CIPEM training, the normal processes for quality assurance and implementation of the training were not followed, and the model was not reviewed by an independent expert until about two and a half years after the training began.
5. We reviewed five cases in which CIPEM-trained interviewers had been brought in to assist investigation teams (including the case affected by the High Court judgment). In two of the five cases we found that the questioning itself departed from good practice and failed to comply with the Judges' Rules on Police Questioning. However, these failures were generally not integral to CIPEM and were due to poor practice and inadequate oversight.
6. During our investigation the negative impact of the persistent media criticism of the officers involved with CIPEM was obvious. We found that Police leadership should have done more to support the officers and proactively correct the perception that CIPEM alone caused the downfall of the case that was subject to the High Court judgment.
7. Police have taken steps to identify and address the problems they are experiencing with interviewing, and a recent review has resulted in recommendations for improvement.

## Recommendation

8. The Authority recommends that Police proceed with establishing the proposed Manager of Investigative Interviewing role, which should focus among other things on:
  - a) developing the new investigative interviewing and engagement training and making it available to all staff;

- b) ensuring that the interviewing trainers have a high level of operational experience and excellent engagement skills; and
- c) creating Level 3 training for interviewing suspects and hostile witnesses.

## Introduction

9. On 17 September 2021, the High Court ruled that statements from a man who had admitted being involved in the murder of a woman were inadmissible due to problems with the way Police interviewed him.
10. This judgment resulted in charges against the man being dropped.<sup>1</sup> There was substantial critical media coverage of the Police practices exposed by the judgment, which focused on some of the investigative practices Detective Superintendent Tom Fitzgerald and those working for him were using. The criticisms related to the use of interviewing strategies from a recently introduced programme for interviewing suspects called the Complex Investigation Phased Engagement Model (CIPEM), in which it is alleged Police:
  - a) created a “fireside chat” environment (with food, comfortable seating and empathetic listening) to put suspects at ease and get them to open up; and
  - b) used manipulative techniques to get the information or confession they wanted.
11. The Authority also received three complaints relating to one or more of the issues raised in the judgment: one received by Police as a protected disclosure and referred to us, and two made directly to us.
12. In view of the judicial criticisms in the judgment, the substantial negative coverage it generated and the concerns raised in the related complaints, the Authority decided it should undertake an independent inquiry.

### WHAT WAS THE SCOPE OF THE AUTHORITY’S INQUIRY?

---

13. Initially the inquiry was for the purpose of determining whether there was any misconduct or neglect of duty by a Police officer.
14. We should say at the outset that the complaints raised a range of issues about potential misconduct, but most of them were based on hearsay rather than direct experience. We have made inquiries to the extent practicable into all the matters raised, including accessing case files that might have been relevant to the issue raised even when it was not referred to in the complaints. However, we have only considered an issue in this report where it has been supported by independent evidence. Otherwise, we have disregarded it. We stress that we can only report on information available to us, and our failure to address an issue does not necessarily mean that it has no substance. It simply means we cannot reach any view on the matter.
15. As our inquiry proceeded, it became evident that the issues are much wider than we originally envisaged and relate to the way in which Police interviewing practices have evolved and

---

<sup>1</sup> Charges against two other men alleged to have been involved in the murder were also withdrawn soon after.

changed, the significant erosion in the effectiveness of those practices over time, and the inadequacies of the steps taken to address them.

16. We therefore broadened the inquiry to consider, and where appropriate make recommendations about, more general matters of Police policy, training and practice in relation to investigative interviewing.

## HOW DID WE CONDUCT OUR INQUIRY?

---

17. During our inquiry we:

- examined court cases where there has been critical scrutiny of the CIPEM methodology;
- accessed the case files of all the cases in which CIPEM-trained interviewers had been used;
- viewed many hours of the key interviews in those cases;
- interviewed all the officers involved in the conduct of those cases and others with knowledge of CIPEM; and
- analysed a variety of Police material on investigative interviewing practice – including, significantly, a recent Police review.

# Police interviewing in New Zealand

## WHAT ARE THE RELEVANT INTERVIEWING MODELS?

---

18. To explain the context in which CIPEM began to be used in New Zealand, we must first briefly describe three different investigative interviewing styles used around the world: the Reid Technique, PEACE and the Phased Interview Model (PIM).

### The 'Reid Technique'

19. The 'Reid Technique' was developed in the United States of America (USA) over 50 years ago. It is an accusatory interrogation method in which, after an investigation, the interviewer:<sup>2</sup>
- a) puts pressure on the suspect by saying that the evidence from the investigation clearly shows they are guilty of the crime (whether this is true or not);
  - b) attempts to persuade the suspect to confess by identifying and developing moral and/or psychological excuses for the suspect's actions (sometimes referred to as 'RMJ' – rationalisation, minimisation and justification);
  - c) actively discourages any denials or objections from the suspect;
  - d) is sympathetic and understanding while urging the suspect to cooperate;
  - e) asks 'alternative questions' in which either answer is an admission of guilt (e.g. *"Did you hit him once or many times?"*); and
  - f) once any admission has been obtained, draws out further information from the suspect to corroborate it and develop it into a form that is admissible in court.
20. Although widely used in the USA for several decades, this approach has been criticised for presuming the guilt of the suspect, relying on psychological manipulation and producing false confessions in some cases.

### PEACE

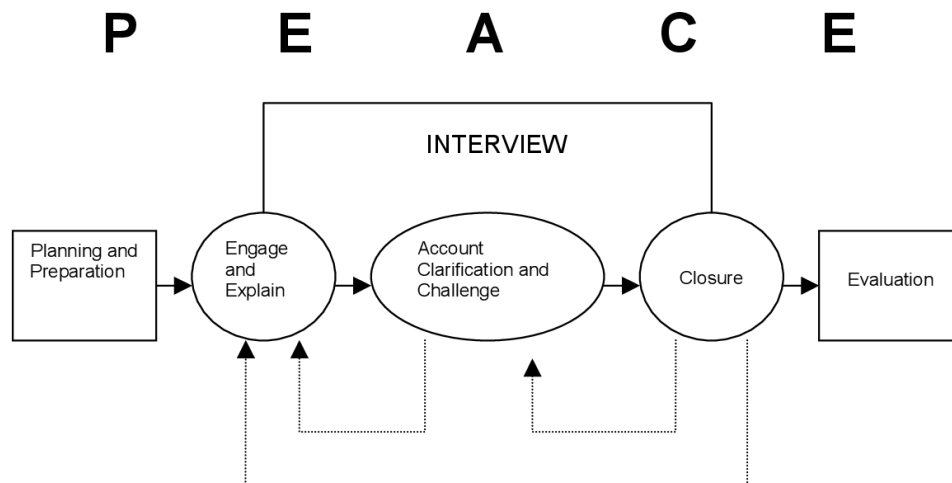
21. The PEACE model was developed in the early 1990s for Police in England and Wales. They were in search of a better approach to interviewing following the introduction of the Police and Criminal Evidence Act 1984, which implemented stricter limits on police questioning.<sup>3</sup>
22. PEACE stands for:

---

<sup>2</sup> Schollum M, *Investigative Interviewing: The Literature* (Review for NZ Police, 2005) pp 78-79.

<sup>3</sup> Ibid., pp 43-53.

- Planning and Preparation.
- Engage and Explain.
- Account.
- Closure.
- Evaluation.



23. This science-based framework can be used for any type of interview (e.g. victim/witness/suspect). It focuses on preparation, building rapport, staying open-minded, actively listening and encouraging the interviewee to provide their account in their own words by asking open-ended questions (e.g. Tell me/Explain/Describe...), and probing questions (Who/What/Where/When/Why/How). The goal is to gather as much reliable and useful information for the investigation as possible.
24. Once the interviewee has given their account, the interviewer may need to clarify or 'challenge' it by asking about inconsistent evidence. The interviewer then closes the interview by ensuring that all topics have been covered and explaining to the interviewee what will happen next. They should also aim to leave the interviewee still willing to speak to them in the future. The final stage is 'Evaluation' of the interview, which is intended to encourage the interviewer's continual learning and improvement.
25. Some criticise the PEACE model for lacking 'persuasion' techniques when interviewing people who are reluctant to talk (although these are deliberately omitted due to the risk of inducing false confessions). Some also view the PEACE framework as being too inflexible, but it is not meant to be a strictly linear process. If new information arises during the interview, the interviewer can go back to an earlier phase as needed. As with any interviewing method, its utility and success varies depending on the training and skills of the interviewer.



26. When done properly, the PEACE model is generally regarded as an ethical and effective interviewing method. It has been adopted by several other Police forces, including New Zealand and parts of Canada and Australia.

### Phased Interview Model for Suspects (PIM)

27. The Phased Interview Model (PIM) was developed from the mid-2010s by the Royal Canadian Mounted Police (RCMP) as a move away from the Reid Technique and towards the PEACE model when interviewing suspects.<sup>4</sup> However, significant elements of the Reid Technique remain.<sup>5</sup> PIM is therefore a ‘hybrid model’ with six phases:

- a) review, preparation, and planning;
- b) introduction and legal obligations;
- c) dialogue;
- d) version challenge;
- e) accusation and persuasion; and
- f) post interview.

28. This model includes the use of persuasion and accusations, when necessary, to the extent they have been supported under Canadian law. It has been adopted by many Police forces in Canada.

29. While acknowledging that much of PIM is consistent with best practice regarding interview preparation, thoroughness, open-ended questioning and rapport, some investigative interviewing researchers have raised concerns about this ‘hybrid’ approach. In particular:<sup>6</sup>

*“a) the use of some forms of minimization tactics can increase the risk of false confessions, (b) mischaracterizing evidence can increase the risk of false confessions, and (c) the use of leading questions can cause individuals to report inaccurate information, and therein contaminate a purported admission or confession. The use of such risky techniques raises questions about the ability of the PIM to achieve the purported goals of obtaining voluntary statements and reliable information.”*

30. We have included a description of this model in our report because there was some suggestion that Detective Superintendent Tom Fitzgerald was influenced by it when he developed CIPEM (originally called CIPIM) for use in New Zealand. The extent to which that is true is discussed in the next chapter.

---

<sup>4</sup><https://www.cpkn.ca/wp-content/uploads/stanhope/2017/presentations/Darren%20Carr%20Interviewing%20-%20Stanhope%202017.pdf>

<sup>5</sup> Snook B. et al., *Challenges of a “Toolbox” Approach to Investigative Interviewing: A Critical Analysis of the Royal Canadian Mounted Police’s (RCMP) Phased Interview Model*, *Psychology, Public Policy, and Law* 2020, Vol. 26, No. 3, pp 261–273.

<sup>6</sup> *Ibid.*, p 263.

## WHAT STATE WERE NEW ZEALAND POLICE INTERVIEWING SKILLS IN WHEN CIPEM WAS INTRODUCED?

---

31. New Zealand Police adopted the PEACE model and began training staff in its use from about 2007, after Dr Mary Schollum completed a review of the international literature on investigative interviewing which set out best practice.<sup>7</sup> Before that, it appears interviewing skills were largely obtained on the job in an ad hoc fashion and relied on methods passed down by more experienced detectives. Police were (and continue to be) guided by limitations set out in the Judges' Rules on Police Questioning (now called the Chief Justice's Practice Note on Police Questioning).<sup>8</sup> But subject to the constraints of those Rules, the methods used were derived from individual experience and were not necessarily evidence-based or empirically validated.
32. We were told Police successfully completed an initial five-year rollout programme introducing the PEACE model, and that staff were enthusiastic about the training and recognised the benefits of it. PEACE was taught at Level 1 (Recruits), Level 2 (Criminal Investigation Branch only), and Level 3 (Specialist Interviewing, e.g. Child Witnesses).
33. However, from about 2012, changes in Police leadership and priorities resulted in investigative interviewing receiving less support and fewer resources. For example, the five-day training course for recruits was reduced to two days because Police wanted to focus more on operational skills (such as using firearms and other weapons, and driving). Police also began to place greater reliance on using online training modules to introduce content to recruits and staff, which is less effective in ensuring that they understand the material and can apply it in practice. We were also told that:
  - a) The online training can be very transactional (with staff clicking through the content but not really absorbing it).
  - b) Recruits are required to pair up and conduct mock interviews as part of their training, but there are not enough instructors and recruits may only receive feedback on their performance from their partner recruit.
  - c) Most instructors and workplace assessors have generally not had much operational experience in dealing with investigations of serious crime and are not trained beyond the level they teach/assess (e.g., recruit trainers are only trained to Level 1). They are also untrained in providing feedback.
  - d) When staff are trained to conduct a video-recorded interview, the training is more focused on getting the technical set-up right than on conducting a good quality interview.

---

<sup>7</sup> Schollum M, Investigative Interviewing: The Literature (Review for NZ Police, 2005) pp 78-79.

<sup>8</sup> <https://www.courtsofnz.govt.nz/assets/going-to-court/practice-directions/practice-notes/high-court/pnpoliceq.pdf>

- e) Trainees self-select which of their interviews will be assessed as part of the workplace portfolio they complete to gain the qualification. They are not required to complete any refresher training to keep their qualification.
  - f) Staff do not spend enough time preparing for interviews and do not receive enough feedback, ongoing mentorship or refresher training as they put their interviewing skills into practice (i.e., Police have neglected the beginning and end of the PEACE model – Preparation and Evaluation).
34. It is worth noting that these problems seem to be confined to the Level 1 and Level 2 Investigative Interviewing training. In comparison, the Level 3 specialist courses are generally regarded as being robust, with a good structure that benefits from a system of moderation, peer review and feedback, mentorship, refresher training and working groups.
35. Nonetheless, Police interviewing skills have been in a poor state generally since about 2012. We were told that most staff do not understand how the PEACE model should be used and lack confidence in their ability to conduct an effective interview. As a result, some officers are uncomfortable with and actively avoid conducting recorded interviews because they do not want their performance to be criticised in court. We were even told that some officers discourage suspects from making a statement at all, or advise them of their rights in a way that invites them to stay silent.
36. Talking with people, whether as part of an interview or everyday interaction, is a core skill for policing and should be treated as such. ‘Engagement’ is key to the PEACE model and to getting information from people who may be reluctant to speak to Police, as this report will discuss in more detail in the context of CIPEM.

# The development of CIPEM

## WHERE DID CIPEM COME FROM?

---

37. It was in the context of this environment of diminished interviewing capability that Detective Superintendent Tom Fitzgerald developed CIPEM. In 2016, a Level 3 Suspect Interviewing course which had been running since 2012 ended, leaving a gap in training that needed to be addressed.
38. Detective Superintendent Fitzgerald was a highly experienced senior investigator, having worked in the Criminal Investigation Branch (CIB) since 1993 and risen to become a Field Crime Manager. About the time he developed CIPEM he was working as the senior liaison officer for New Zealand Police in Canberra but remained connected to and involved in the CIB. He later became the Director of the National Crime Investigations Group before retiring from Police in 2022.
39. During his career Detective Superintendent Fitzgerald acquired a reputation for being good at talking to people and recruiting sources. From the mid-2000s he participated alongside experts from Canada and Australia in training for managing confidential human intelligence sources (CHIS – colloquially known as informants), and he was subsequently asked to train New Zealand Police in source-handling. He did a lot of research on the subject and helped New Zealand Police develop more ethical practices over a period of about ten years. This required a major culture shift for detectives, which we were told generated some hostility towards Detective Superintendent Fitzgerald.
40. Detective Superintendent Fitzgerald knew that successful engagement was key for recruiting sources and had taught this in CHIS training for years. Having the skills to convince someone to provide information to Police requires a deep understanding of how people think and why they act the way they do. CHIS handlers are therefore trained to study the people they identify as potential sources carefully, and to understand their needs, attitudes and values before approaching them.
41. Over time Detective Superintendent Fitzgerald began to think about how engagement was also vitally important to investigative interviewing, especially in complex cases where people are reluctant to talk and/or hostile towards Police. Drawing on his CHIS experience, he determined Police could conduct more successful interviews by improving their engagement skills and preparing more thoroughly before speaking to those individuals.
42. Detective Superintendent Fitzgerald told us he had researched different interviewing styles and frameworks and was aware of the Canadian Phased Interview Model (PIM – see paragraphs 27-30), but said it “*was not the predominant influence*”. He felt there were a lot of shortcuts and ‘Reid Technique’ elements (see paragraphs 19-20) in the Canadian model that would not fit within the PEACE model in New Zealand. He went on to develop his own phased model, which he originally called CIPIM – the Complex Investigation Phased Interview Model. He later changed the name to CIPEM, replacing the word ‘Interview’ with ‘Engagement’. He told us he did this to emphasise the model’s focus on engagement throughout the interview process, starting from

before Police approach the person and continuing after the interview is complete, ideally leaving the person still open to talking to Police in the future.

- 43. It is therefore evident that, while CIPEM was not introduced as a recognised interviewing model until around the end of 2018 (see the discussion below at paragraph 54), the thinking behind it evolved over time. Elements of it had formed part of CHIS training and practice for many years and were also apparent in some suspect interviews in earlier criminal investigations, especially when conducted by officers who had received CHIS training. For example, some of the techniques in CIPEM can be seen in a homicide investigation, known as Operation Dallington, as early as 2009, and were also apparent to varying degrees in a small number of other investigations in the period between 2016 and 2018.
- 44. To some degree, therefore, Detective Superintendent Fitzgerald did not promulgate an entirely new model of his own; he drew on and synthesised practices that already had some currency. It is important to stress, however, that this was not formally recognised by the organisation as a whole or systematically integrated into training. It was an evolving practice amongst only a small group of officers.

## WHAT IS CIPEM?

---

- 45. Detective Superintendent Fitzgerald told us he was not aiming to replace PEACE with CIPEM, but to enhance interviewers' skills by teaching them *how* to encourage people to talk and how to ask the questions without causing undue alienation or offence. CIPEM emphasises that interviewers must treat the interviewee with empathy, dignity and respect throughout. The interviewer should also be calm and composed, open-minded, and genuinely curious about the person they are interviewing.
- 46. CIPEM was envisaged as being used primarily with suspects (though it could also be used for hostile witnesses), and therefore much of the training material was written with suspects in mind. Its nine phases broadly align with most of the PEACE model (Phases 1 and 2 – Planning and Preparation; Phases 3 and 4 – Engage and Explain; Phases 5-8 – Account; and Phase 9 – Close). We have provided a brief explanation of the phases here, but of course Detective Superintendent Fitzgerald taught them in much more detail, using his extensive knowledge and experience of investigative interviewing and source-handling techniques.

### 1) Profile.

The interviewer must prepare by assessing all the relevant information (such as previous statements), establishing objectives for the interview and planning how they will engage and develop rapport with the suspect. This includes creating an in-depth profile of the suspect to help the interviewer understand their perspective through knowledge of their relationships, lifestyle, needs, motivations and pressures. The interviewer should consider reasons why the person would not want to talk to Police (such as fear of harming themselves or others by disclosing information, embarrassment, legal consequences, and so on). Profiles on the victim, the offence and the interviewer should also be prepared.

## 2) Approach.

CIPEM instructs interviewers to be aware of how people perceive them and carefully manage first impressions (including body language) so as not to confirm any negative biases the suspect may hold. Police may only get one chance to convince a suspect to talk to them. There should be a detailed plan for approaching the suspect to maximise the chances that they will engage (e.g. where and what time of day would be best and what kind of person they are most likely to respond favourably to).

## 3) Engage.

Using the suspect's profile, the plan of engagement and knowledge of *"the science of interpersonal influence"*, the interviewer should have prepared for and rehearsed a range of responses to the suspect, depending on how they react. This phase includes ensuring that the suspect is aware of their rights and setting the expectations for the interview.

## 4) Resistance.

One of the reactions the interviewer must plan for is resistance. It is natural for people to want to protect themselves and this may lead to them refusing to talk or lying to cover up their behaviour. The interviewer should not take it personally and should continue being empathetic and understanding, and attempting to address the suspect's concerns and/or demands without becoming aggressive or authoritative. Resistance is still a form of engagement and can lead to more helpful participation from the suspect if managed well.

## 5) Dialogue.

The interviewer should encourage the suspect to tell their story without interrupting, and keep the conversation flowing while maintaining control of the interview. Interviewers are instructed to 'establish a baseline' of the suspect's behaviour during their dialogue, so they can compare how the suspect reacts when later challenged on their account in the 'Version challenge' and 'Appeal' phases. Interviewers should also be assessing the suspect's account while continuing to build rapport (likeability and trust).

The training material on this phase includes an element which is reminiscent of the Reid Technique: obtaining small admissions which can be built into a confession:

### ***"Commitment questions"***

*The key to obtaining an admission in complex and cold cases is to have the suspect make small commitments to the truth, like the strands of the circumstantial evidence rope, in which one strand is not strong enough but many strands create a strong argument. The interviewer must understand and deploy the process of small commitments.... The interview plan must detail minor points that the interviewer will persuade the suspect to agree to."*

The way this is phrased with reference to the 'truth' presumes that the suspect is guilty, and there are several other examples of such language in the training material. When the

training material was reviewed in 2021, Detective Superintendent Fitzgerald acknowledged that parts of it were poorly worded and emphasised that he believed CIPEM did not contain any of the *“often-criticised REID techniques of interviewing”*, including presumption of guilt.

**6) Add value.**

Interviewers should show genuine interest in what the person has to say, and listen actively and without judgement. The suspect will be assessing the interviewer’s reactions, and this may affect what they are willing to disclose.

**7) Version challenge.**

In this phase the interviewer may disclose evidence that contradicts or is inconsistent with the suspect’s account, and seek the suspect’s reaction and/or explanation. Interviewers should have pre-planned how and when they will present the evidence (e.g. it may have to be done earlier in the interview to generate conversation). Interviewers should continue to be empathetic, respectful, neutral and non-judgmental.

We were told that the training covered different scenarios, including cases where the suspect was innocent. However, the training material for this phase contains several more examples of language that presumes the guilt of the suspect and borders on the Reid Technique, including discussion of accusing the suspect, using a ‘good cop, bad cop’ approach (preserving rapport by suggesting it is not the interviewer but their boss who thinks the suspect is guilty), and getting the suspect to make *“small commitments”* rather than accusing them outright (e.g. accusing them of being present when the crime happened). We discuss later the extent to which these potentially problematic features of the training material may have influenced practice.

**8) Appeal.**

This phase of CIPEM is the most problematic in terms of similarity to the Reid Technique’s presumption of guilt and the use of psychological manipulation (which research has shown can induce false confessions). It encourages the interviewer to use *“emotional and moral pleas”* to get the suspect to tell the ‘truth’. The training material refers to ‘denials’ and ‘confessions’ by the suspect, which again presumes the suspect is guilty and undermines the open-minded approach advocated by the PEACE model. It also refers to the use of RMJ (rationalisation, minimisation and justification) tactics and says:

*“This process involves showing the suspect that the interviewer understands what has occurred and helping the suspect to think about their actions by rationalising, minimising and justifying their actions....*

*The interviewer must assist the suspect by morally minimising their reasons for committing the offence.... The interviewer must ensure the suspect understands that their world has now changed.”*

Crucially, Detective Superintendent Fitzgerald says he did not train people to use RMJ in the way it is used in the Reid Technique – that is, introduced by the interviewer to downplay the crime, minimise the consequences and encourage a confession. He says CIPEM limited its use to the interviewer allowing the suspect to raise these ideas or excuses, and when the suspect does so, exploring them rather than rejecting them (even if there is contradictory evidence). However, he acknowledged that it could take years of experience for an interviewer to understand the intricacies around properly using RMJ in this manner.

This issue directly relates to some of the criticisms of CIPEM that have emerged and will be discussed further in the next chapter.

## 9) Close.

Consistently with the PEACE model, this phase covers completing the administrative requirements (such as signing statements), considering the welfare of the interviewee and leaving the interview on good terms. We note that some of the training material for this phase is again based on a presumption that a guilty suspect has confessed. For example:

*“The closing phase is the opportunity to confirm with the suspect what they now accept as the correct version of events. When the suspect has admitted to the crime, they will be feeling exhausted and emotionally drained.”*

However, Detective Superintendent Fitzgerald maintains that trainees received full oral instruction on the necessity of maintaining an open mind throughout the interview and we have no reason to question that.

- 47. We note that CIPEM relies on the interviewers already having good core PEACE interviewing skills and techniques, which will depend on how well they have been trained and mentored during their career.
- 48. Detective Superintendent Fitzgerald told us he was aiming to use the CIPEM model to increase Police’s chances of successful interviews, but it was also relevant to how Police engage with people in general, every day of the week. Being nice and approachable will get an officer further than being aggressive and overly authoritative. All the Police officers we spoke to agreed that, in this respect, such training is extremely valuable.

## WAS CIPEM APPROVED AND VETTED BEFORE IT BEGAN TO BE USED?

---

- 49. We spoke to the person who held the role of Assistant Commissioner: Investigations when CIPEM was developed. He told us Detective Superintendent Fitzgerald was motivated to fill the gap in training for complex investigations and had received the support of the then Commissioner of Police. Detective Superintendent Fitzgerald told us he also had the support of the Director of Criminal Investigations.
- 50. The Assistant Commissioner was not aware of the details of the model, but said he had faith in Detective Superintendent Fitzgerald’s expertise in investigative interviewing. Although



Detective Superintendent Fitzgerald was based in Canberra at the time, he was already periodically visiting New Zealand for various purposes (including conducting CHIS training) and CIPEM was incorporated into those trips, which we understand had his supervisor's approval.

51. Both the Director of Criminal Investigations and the Assistant Commissioner: Investigations who took over in February 2021 attended CIPEM training sessions. We were told that this level of engagement from high-ranking officers was unusual and confirmed to the officers delivering and receiving the training that the Police Executive was fully aware of CIPEM and approved its use. Detective Superintendent Fitzgerald also told us that senior leadership was regularly briefed on CIPEM's progress, methodology, and alignment with best practices. Furthermore, two of the cases assigned to CIPEM-trained officers (Cases 1 and 2, discussed below) were specifically forwarded down the chain of command from senior executive members, through the National Manager of Criminal Investigations, to the CIPEM team for interviews.
52. We are therefore satisfied that the Police Executive approved the use of CIPEM. However, it appears the approval was given informally and was not documented or signed off as it should have been. As a result, the normal processes for quality assurance and implementation of the training were not followed, although the participants in the training course were not necessarily aware of that. The CIPEM training was only for a select group (as discussed further in the next chapter) and was not run through the Royal New Zealand Police College like most other training. Nor was any formal certification recorded for the trainees.
53. The model was not reviewed by an expert until after criticisms arose in mid-2021. Detective Superintendent Fitzgerald said the model was in continual development and that he always intended to have it peer reviewed. In our view CIPEM would have benefited from wider input and this should have been done at a much earlier stage. If it had been, some of the problems with its implementation might have been avoided and the staff impacted may not have been exposed to the resulting criticism. As it was, CIPEM was siloed and perceived by some others within Police as an initiative for a select few.

# CIPEM in practice

## HOW WAS CIPEM INTRODUCED?

---

### What training took place?

54. The first training session for CIPEM ran in December 2018, and two further sessions were run in September 2021 and April 2022. There were 12-16 participants in each course. Detective Superintendent Fitzgerald selected CHIS-trained officers he knew to have good engagement skills for this advanced training.
55. Detective Superintendent Fitzgerald intended the CIPEM-trained officers to be used as a specialist group that would be called in to conduct interviews and/or give expert advice for complex, high-stakes cases.
56. During the training Detective Superintendent Fitzgerald introduced the model in detail via PowerPoint presentations and discussions, and the trainees prepared for and role-played different scenarios to practise their engagement and interviewing skills. We were told the training largely focused on the need to develop empathy for and understanding of interviewees, removing preconceptions and not being judgmental. The goal was to give the trainees the confidence to approach people in the right way and conduct the whole interview more effectively.

### *Was it appropriate to select CHIS handlers for the CIPEM training?*

57. As discussed above, we were told during our investigation that a practice had already developed prior to CIPEM of CHIS handlers being asked to conduct investigative interviews because they were known to be good at talking to people. However, some people raised questions about whether using CHIS handlers for evidential interviews risked blurring the lines of acceptable interviewing practices. They suggested that, because some of the techniques used to engage with a CHIS would be considered improper in the context of an evidential investigative interview, and the interviewers might not otherwise have had a lot of experience with having to comply with the extensive rules around what can be submitted as evidence in court, there was a risk that they would, wittingly or unwittingly, overlook those rules.
58. Detective Superintendent Fitzgerald told us he was aware of this risk and the staff he selected for the training had other relevant investigative experience and were not solely CHIS handlers. He acknowledged that not all CHIS handlers were suitable candidates for the training.
59. We are satisfied that the decision to select CHIS handlers for the CIPEM training was appropriate. The officers involved in investigating the cases we examined in detail were all experienced criminal investigators, and we did not discern any widespread practice of “*blurring the lines*” or ignoring the legal requirements for evidential interviews.

### *Why was the training material copyrighted?*

60. During our investigation, some people told us that the training material for CIPEM was copyrighted to Detective Superintendent Fitzgerald, which led them to assume he was setting himself up for a post-Police career in selling and delivering the training. However, Detective Superintendent Fitzgerald told us he copyrighted the material because he did not want it to be misused or misunderstood. He worried that people would only use parts of the training, get it wrong and then blame the model.
61. We have found no evidence to substantiate the view that Detective Superintendent Fitzgerald envisaged establishing a business training police forces around the world. Even if he considered doing so, we doubt any claim of copyright for this purpose would have been successful, given the nature of the material and the context in which it was developed.
62. We therefore accept his statement that he was concerned to ensure that CIPEM was developed and trained in a properly coordinated way, and that this would not happen unless he retained control. This reflects the fact that there was no overall organisational strategy for the development and implementation of CIPEM; although it had been generally endorsed by the Commissioner and other individual members of the Police Executive, it was dependent on the actions and control of one individual.

### **What cases were CIPEM-trained interviewers used for?**

63. CIPEM was primarily designed to be used in 'cold' cases, where Police lack enough evidence to charge anybody. People may be regarded as suspects for years but still refuse to speak to Police even if it could clear their name. It was hoped that, if Police could encourage these suspects to speak to them, it might open new avenues of inquiry that could lead to the case being resolved.
64. Another type of case for which CIPEM was thought to be useful was baby deaths, where Police need to rely on evidence from family members to prove what happened and who was responsible. These cases highlight the importance of Police being empathetic and non-judgmental in their approach, because if officers go in with a negative attitude against the people involved then they are much less likely to succeed in encouraging them to talk. CIPEM suggests that it is helpful for Police to consider and understand the pressures acting on family members in these situations before attempting to interview them. Furthermore, this kind of approach should extend to all Police staff interacting with the family, not just detectives.
65. CIPEM-trained officers carried out interviews in five cases throughout 2019. The existence of a cohort of specially trained officers was known within Police, with a small number of investigating officers tasking Detective Superintendent Fitzgerald and his team to revisit key individuals in cases that had generated significant public interest. These were all complex cases that had stalled. Police usually had very little evidence to work with, and in some cases were hampered by previous investigative failures. However, it was hoped that people would be willing to talk because time had passed and loyalties might have changed. In each case the CIPEM-trained interviewers were briefed by the investigation team and prepared and rehearsed before conducting the interviews. The time spent doing this varied in each case.

66. The five cases we have identified were explicitly described as the implementation of the CIPEM interview methodology following the delivery of training to a specified cohort of officers. These are the cases we have focussed on during our investigation.
67. We are unable to say whether there are any other cases where the CIPEM methodology has been used, as it has not been possible for us to identify any such cases. It is likely that there are interviews in other cases, both pre- and post-CIPEM, where some of the criticisms discussed in this report apply. Interviewing is not an exact science, and Police make errors.
68. The five cases revisited by the CIPEM-trained officers (and therefore the focus of our enquiries) were:
- Case 1 – the disappearance of a woman in 2005;
  - Case 2 – a baby’s death in 1985;
  - Case 3 – the disappearance of a 9-year-old boy in 1957;
  - Case 4 – the homicide of a woman in 2016; and
  - Case 5 – the homicide of a woman in 1995.

### *Case 1*

69. The first interview involved speaking to a man who was suspected of involvement in a woman’s disappearance. This interview was personally conducted by Detective Superintendent Fitzgerald on 1 May 2019 and lasted for about an hour. The person of interest had been interviewed twice previously, with Detective Superintendent Fitzgerald and his team being tasked to revisit aspects of his account. During the interview, the interviewee was repeatedly challenged on the following:
- the timing of an alleged encounter with the missing woman – the implication being that it was not possible for somebody to disappear without trace a relatively short time before a search was commenced;
  - the interviewee’s initial description of the woman, which was not consistent with somebody of her physique and age who may have been lost in the bush for almost two-and-a-half hours;
  - the identity of the person the interviewee was overheard talking to at the time of his alleged encounter with the woman, with witnesses stating it sounded like a man; and
  - his movements immediately following his encounter with the woman.
70. It is apparent that there was a degree of scepticism regarding the interviewee’s account, with the interviewee being asked to reconsider his comments in light of witness accounts and a timeline prepared by Police. The prospect of further information coming to the attention of Police in the future, further undermining the interviewee’s position, was also broached.

However, the interview ended with the interviewee refusing to diverge from the account he had given during his many interactions with Police.

71. Detective Superintendent Fitzgerald told us that he discussed elements of the interviewee's account with the investigation team post-interview. Aspects of the interviewee's account were regarded as credible, with scenarios described by him being viable hypotheses that pointed away from his involvement in the woman's disappearance. No further action was taken following this interview.

## Case 2

72. On 2 May 2019, a suspect in the death of a baby in 1985 was re-interviewed with a view to addressing shortcomings in the original Police investigation. Although not performing the role of interview monitor,<sup>9</sup> Detective Superintendent Fitzgerald was present in the monitoring room while the interview was conducted and gave direction to the interviewer during breaks in the interview. The interview was conducted over a period of about four hours, with limited progress being made with the interviewee, who was unable to clearly articulate what had occurred. However, while she did make various inculpatory remarks, it was not possible to progress matters because it was later discovered that medical records, which were deemed critical to any successful prosecution, had been destroyed.
73. Police, who were evidently dissatisfied with the interviewee's description of how the baby was injured, were tenacious in their pursuit of an account that corresponded with the views of medical experts. The interviewer introduced the mode of injury after leaving the interview room for a short period – presumably to consult with Detective Superintendent Fitzgerald – before challenging the interviewee, whose explanation did not adequately account for the severity of the baby's injuries. Efforts to draw out the 'truth' continued for the duration of the interview, with the interviewer at one stage telling the interviewee that her account was "*not right*".
74. Constant reassurance was given to the interviewee, who was told that a burden would be lifted if she told the truth. The overall tone of the reassurance implied that the interviewee, and the baby's family, could simply move on if a truthful account (one that explained the injuries sustained by the baby) was provided. At one point, clearly concerned, the interviewee queried what might happen to her after the interview. She was told: "*Today, you walk out of here*", which in our view downplayed the seriousness of the alleged offending and the ramifications of any inculpatory statement made by her.
75. When discussing the length of this interview, and the interviewer's persistence in attempting to coax an account out of the interviewee, Detective Superintendent Fitzgerald told us there was a willingness on the interviewee's part to engage with them: she had been contacted out of the blue and volunteered to speak to Police about an event from her distant past. It is apparent that

---

<sup>9</sup> The use of monitors is recommended for PEACE interviews. The monitor's role is to observe the interview, make notes and ensure that all topics have been covered. They should also ensure that the legal and procedural requirements are met and provide feedback to the interviewer.

the interviewee struggled to articulate what occurred, with many of her responses being incoherent, inaudible, or vague.

76. The interviewee also alluded to finding it hard to elaborate on critical matters (suggesting there was a mental barrier preventing disclosure). Detective Superintendent Fitzgerald told us this pointed to the likelihood that the interviewee was wanting to engage but was clearly struggling. He said the interviewer's encouragement (which could be construed as minimisation) was not to compel the interviewee to talk, but rather to help facilitate disclosure. If the interviewee had made consistent and repeated denials, as in Case 3 (see below), he would have suggested concluding the interview much earlier.
77. About three hours into the interview, the interviewee made a shaking motion with her hands before confirming that she shook the baby, the shaking motion following her demonstrating how she was bouncing the baby on her knee on the day she sustained her injuries. The interviewee was extremely distressed at this time, indicating that she had had no idea of the consequences of her actions. This concession on the part of the interviewee led to Police unsuccessfully seeking a fuller explanation for the remainder of the interview (e.g., clarity around how the interviewee then came to drop the baby).
78. Police wanted to charge the suspect, but it was later discovered that the file lacked medical evidence that would be needed for a prosecution. This problem should have been identified by the investigation team before the interview was undertaken.

### *Case 3*

79. On 4 May 2019, an 88-year-old person of interest in the 1957 disappearance of a 9-year-old boy was interviewed. Despite the interviewee's age and frailty, he was interviewed for about two hours, during which he denied any involvement in the boy's disappearance. Again, Detective Superintendent Fitzgerald maintained 'strategic' oversight of this interview, with the interviewing officer alluding to a conversation between Detective Superintendent Fitzgerald and the interviewee pre-interview. There is nothing to suggest that this pre-interview conversation was anything other than a discussion about the formalities of the interview process, although we have found no documentation to this effect.
80. Having reviewed video of this interview, we are of the view that Police were sensitive to the interviewee's condition and concluded their questioning of him when it became apparent that he was unwavering in his responses. Interestingly, the interviewee's daughter was permitted to sit and engage with her father as the interview progressed. According to Detective Superintendent Fitzgerald, this approach was unplanned and caused a degree of trepidation on his part. He told us that in his experience, the involvement of family caused interviewees to become less forthcoming. The interviewee's daughter, however, told us that Detective Superintendent Fitzgerald insisted she take an active part in the interview.
81. Of note, the interviewee's daughter is a psychoanalyst. She told us Police were aware of her background and that they believed her father would better understand questions asked by her. Although she was not told what to say, she was given guidance and made aware of what investigators wanted to cover. She ultimately adopted an approach that was consistent with

what Detective Superintendent Fitzgerald told us was his interpretation of ‘morally minimising’, a technique taught to CIPEM practitioners: she let her father know that his family’s love for him was unconditional and would not be undermined by any harm he may have inflicted on anyone in the past. Ultimately, it was not possible to progress the investigation and no further action was taken.

82. While we accept that the daughter’s lucid account is her genuine recollection of an event she found stressful, and retrospectively considered to be manipulative, Detective Superintendent Fitzgerald’s version of events (that the daughter asked to become involved in the interview) is supported by case notes on the file made at the time. We therefore prefer his account. In any event, the daughter’s role as she reported it did not, in our view, breach the Chief Justice’s Practice Note on Police Questioning or risk inducing a false confession.

#### Case 4

83. On 15 and 17 August 2019, Detective Superintendent Fitzgerald’s team interviewed a suspect in the 2016 homicide of a woman. The first interview was later subject to criticism by the High Court Judge, who ruled that the suspect’s statements were inadmissible as evidence.
84. The suspect was in prison on unrelated matters when he was first approached by Police on 15 August 2019. After agreeing to accompany officers to a Police station he was interviewed by CIPEM-trained officers, who followed up with him by telephone the following day.
85. The 15 August interview was notable for three reasons: the failure to record off-camera interactions between the suspect and interviewing officers; the suggestion that the woman’s death was unintended; and what was considered by the Judge to be excessive manipulation, both in terms of what was said and the style of the interview.
86. The telephone conversation on 16 August 2019 was described by the Judge as a “*calculated continuation*” of the preceding day’s interview. The suspect should therefore have been cautioned at the commencement of the call, or at least as the conversation developed, with the suspect making remarks that were indisputably pertinent to their alleged involvement in the woman’s death.
87. A second interview was completed with the suspect on 17 August 2019, during which they admitted shooting the woman. The Judge expressed concerns regarding the credibility of this admission, with the suspect prevaricating and providing information that was inconsistent with known facts. It was postulated that the seeds of this ‘admission’ were sown during the first interview and compounded by the sense of urgency created by the interview team (i.e., it was disingenuously suggested that the interviewers could only “*hold the walls back for a bit*”).
88. CIPEM, and the tactics employed by this methodology, received substantial media coverage following the Judge’s ruling that the statements made by the suspect were inadmissible, thus precipitating the collapse of the Police prosecution. As stated at the start of this report, the negative media coverage generated by the judgment, as well as concerns raised in related complaints, led to the Authority undertaking an independent inquiry.

## Case 5

89. On 25 October 2019, Police interviewed two persons of interest in the murder of a woman in 1995. The investigation had stalled until new information implicating the interviewees came to light. In common with all the CIPEM interviews examined by us (except Case 4, where the suspect was already in custody), the interviewees were directly approached by the CIPEM team (either in person or via telephone) and, in this case, invited to a Police station to discuss the woman's murder, a matter they had previously spoken to Police about some 24 years previously. (In all CIPEM-related cases, the engagement tactics adopted led to interviewees attending Police stations voluntarily, where their alleged involvement, or the content of earlier statements, was subject to scrutiny).<sup>10</sup>
90. Within about 45 minutes of their interview commencing, one of the interviewees admitted they had killed the woman, implicating others in the instigation and commission of the act (including the other interviewee who was spoken to by Police on 25 October 2019). We note that, shortly before that interviewee's confession, the interviewer suggested Police were speaking to somebody known to the interviewee who was providing them with relevant information (with the implication that the information might incriminate the interviewee), which was not the case.
91. The other interviewee made no admissions and protested their innocence throughout. An off-camera interaction between Detective Superintendent Fitzgerald and this interviewee was the focus of attention during this interviewee's 2023 trial. We note that Detective Superintendent Fitzgerald was never examined on this point. He told us he simply introduced himself and invited the interviewee to re-engage with Police should they wish to discuss the matter further. It is not possible to establish beyond doubt what was discussed because of the absence of notetaking or other record-keeping – a recurring theme throughout our enquiries that we discuss in more detail later (at paragraphs 145-146).
92. The 25 October 2019 interview of the person who admitted killing the woman was specifically referred to by a complainant to the Authority, who indicated that the interviewer had misapplied the caution, a practice the complainant felt was indicative of Detective Superintendent Fitzgerald's approach to interviewing and likely being employed by the CIPEM officers he had trained. This is considered further below (at paragraph 108).
93. The third and final person of interest in Case 5 was initially interviewed on 18 December 2019. In putting to them what it was alleged the interviewee had done, the interviewer implied that both persons interviewed on 25 October had implicated them in the woman's death, which, as already said, was not the case. A further, brief interview of this individual was completed in 2020.
94. We are mindful that interviews of suspects in the woman's homicide were the subject of much scrutiny during recent Court proceedings, especially in light of the negative publicity afforded to CIPEM and Detective Superintendent Fitzgerald in the wake of the judgment in Case 4. All three

---

<sup>10</sup> Engagement tactics like these were also utilised in other cases examined by the Authority, but were not necessarily successful (e.g., Op Renovation).



interviewees were convicted of involvement in the woman's death in December 2023. Two have appealed their convictions. As at the time of publication of this report, their appeals had not been heard.

## WHAT PROBLEMS DID WE IDENTIFY IN THE CASES WE REVIEWED AND WERE THEY CAUSED BY CIPEM?

---

95. The interview techniques that were features of CIPEM are grounded in common sense and are key features of any effective human interaction – especially the focus on rapport building and engagement and what that means in practice. As the Judge noted in Case 4:

*“While [CIPEM] is a somewhat different approach for police, there does not appear to be anything novel or radical about it. It is an interview style that emphasises building a relationship, maintaining dialogue and avoiding the traditional ‘cop-mode’ structure of an interview.”*

96. Although there have been some criticisms of CIPEM in the media for its focus on engagement and putting the suspect at ease (including providing food, empathy, and a comfortable environment), we have no concerns about such aspects of the model.<sup>11</sup> Effective engagement is recognised internationally as best practice for investigative interviewing, and we were told the loss of appreciation of that is one of the reasons for the erosion of interviewing skills within Police. It is clear to us from the CIPEM-trained interviews we have observed that when engagement was done well, it contributed to an effective interview that was more likely to produce truthful responses. Examples of such interviews include the interview of the person who admitted killing the woman in Case 5, and the interviews completed in respect of Case 1 and Case 3.
97. However, some of the interviews we observed, including those in Case 4, did involve practices that were contrary to either legal requirements or good practice.
98. Police interviews are subject to the Chief Justice's Practice Note on Police Questioning which provides guidelines for assessing whether Police have obtained a statement “unfairly” and therefore improperly. Under section 30 of the Evidence Act 2006, a Judge must consider excluding improperly obtained evidence by weighing up several factors (such as the importance of the right breached, the nature of the impropriety, the seriousness of the offence and so on). The Judge must exclude the evidence if they determine that its exclusion is “proportionate to the impropriety”. That is what happened in Case 4.<sup>12</sup>
99. We turn to consider the extent to which the CIPEM interviews included some form of impropriety, the nature of that impropriety and any impact it had on the outcome of the case.

---

<sup>11</sup> Regarding the suspect in Case 4, Police were required to feed him as he was a prisoner in their custody.

<sup>12</sup> The Judge concluded that Police had breached Guidelines 2, 3, 4 and 5 in Case 4. He also found that “it was an excessively manipulative interview that played on [the suspect's] weakness and left him confused about what had happened.”

## Failure to provide an adequate caution

100. In all five cases we examined, Police provided a caution at the first meeting of each interviewee, and at the commencement of the interview. Case 4 was the only case in which a concern about the adequacy of the caution given to the suspect at the start of the interview directly arose in subsequent proceedings.
101. Guideline 2 of the Chief Justice’s Practice Note on Police Questioning provides that when Police have enough evidence to charge the person, or the person is in custody, Police must caution the person before inviting them to make a statement or answer questions.<sup>13</sup>
102. In Case 4, Police first spoke to the suspect in prison and then brought him to a Police station to conduct an interview. A detective called the suspect the next day and had a conversation with him before conducting a second interview in which the suspect admitted to being involved in the killing of the woman.
103. The Judge considered whether Police had properly cautioned the suspect before the first interview. He found Police had formally complied with the requirement to provide a caution, but noted that the detective had downplayed the context, saying that Police had spoken to a lot of people and explained their rights, and would do the same for him. However, the Judge was satisfied the suspect understood his rights.
104. The Judge was more concerned about the phone call that took place the next day, which he regarded as a continuation of the conversation that had happened during the first interview. The detective did not provide a caution, even after the suspect asked about getting a discharge for his friend in return for *“something from me to make it all go away”*. The Judge found this was a *“clear breach”* of Guideline 2.
105. Some commentators have suggested that CIPEM causes the interviewer to avoid, downplay or gloss over the caution because the interviewer is too focused on building and maintaining rapport, and does not want to undermine the relationship by reminding the suspect that what they say can be used as evidence against them. Detective Superintendent Fitzgerald and other officers we spoke to denied this was a feature of the model. While acknowledging that giving a suspect a caution is likely to disrupt attempts to engage with them, Detective Superintendent Fitzgerald told us he encourages officers to provide a caution as early as possible, during the initial phone call and at the start of an interview. He says he does this by explaining that the suspect is a person of interest and Police want to hear their story. Another officer said the CIPEM training merely discouraged interviewers from sounding robotic when they cautioned an interviewee.
106. The CIPEM training material confirms that interviewers were instructed to provide a caution:

---

<sup>13</sup> The caution to be given is: (a) that the person has the right to refrain from making any statement and to remain silent; (b) that the person has the right to consult and instruct a lawyer without delay and in private before deciding whether to answer questions and that such right may be exercised without charge under the Police Detention Legal Assistance Scheme; and (c) that anything said by the person will be recorded and may be given in evidence.

*“The engagement phase includes ensuring the suspect is fully aware of their rights. The interviewer must ensure they clearly explain the bill of rights and caution and the question of ‘why are we here’. They must then set the expectations for the interview. Outlining the suspect’s right is a critical element of the interview that runs a high risk of shut down by the suspect.”*

107. We are satisfied that, while the failure to provide a caution during the phone call in Case 4 was a breach of Guideline 2, this breach was not caused by any specific element of the CIPEM model or the way in which it was trained. The detective told us the breach happened because he had not expected the suspect to make incriminating comments on the call, but acknowledged he should have provided a caution at that point. He noted that he did not question the suspect further about the homicide on the call (which was recorded) and arranged the second interview without making any promises about charges or outcome.
108. As noted above (paragraph 92), it has been suggested to us that the caution was also deliberately misapplied when the person who admitted killing the woman in Case 5 was interviewed, because the required reference to free legal advice was omitted by the interviewer. We were told this pointed to the subversion of legal processes and was a deliberate tactic taught by Detective Superintendent Fitzgerald and deployed by the CIPEM officers he trained. Having reviewed this interview, we do not accept this. There are no indications that the caution was subverted with a view to misleading the interviewee. We note in passing that the interviewee was also cautioned en route to the Police station, with the interviewer alluding to this at the start of the video-recorded interview.

#### **Ignoring requests to stop the interview/consult a lawyer**

109. This issue arose in Case 4 where a request from the interviewee to *“take me back to my cell please”* was ignored (although the interview did end about 14 minutes later). It also arose in one of the interviews for Case 5 where the interviewee repeatedly said *“I think I need a lawyer”* but the interview continued.
110. While this reflects extremely poor practice, we are satisfied that it is not a feature of CIPEM and could – and no doubt does – happen in interviews being conducted under other models.

#### **Overuse of the ‘Version Challenge’ and ‘Appeal’ phases of CIPEM**

##### *Aggressive/unnecessarily persistent questioning*

111. Guideline 3 of the Chief Justice’s Practice Note on Police Questioning states that questioning must not amount to cross-examination. *R v Chetty* provides that:

*“Questioning which is, in the circumstances, aggressive, intimidatory, unnecessarily persistent or otherwise designed to wear the suspect down is likely to cross the boundary of what is permissible.”<sup>14</sup>*

---

<sup>14</sup> *R v Chetty* [2016] NZSC 68, para 27.

112. We noted earlier that some aspects of the CIPEM training material were concerning because they assumed that Police know the ‘truth’ of what has happened and need to work towards getting the suspect to admit to that truth. There were two cases – Case 2 and Case 4 – where this apparent mindset seemed to result in aggressive and/or unnecessarily persistent questioning.
113. In Case 4, two protracted interviews (punctuated by a telephone conversation) were completed with the suspect, with Police endeavouring to get the suspect to repeat comments allegedly made to a confidential source. The comments strongly suggested that the suspect was responsible for the woman’s death, which may have led to a degree of tunnel-vision and a certain tenacity in the pursuit of a narrative that accorded with Police expectations (in the face of a meandering and sometimes confusing account). Similarly, the baby in Case 2 was known to have been in the care of an individual when she sustained injuries that were consistent with being shaken. In both cases there was a compelling argument that a specific individual was responsible for the death of the victim. In both cases Police were drawn into extended dialogue/interactions that sought to confirm and corroborate information Police had to hand. It is possible that this combination of variables contributed to situations that unwittingly got out of hand, with the officers concerned employing CIPEM tactics (specifically the Appeal phase) to excess and to the detriment of what is considered best practice.
114. In Case 4, the Judge determined that Police breached Guideline 3 during the first interview by consistently rejecting the suspect’s denials that he was involved in the murder. The first interview lasted over five hours, during which time the interviewers persisted in saying that they knew the suspect was present and appealed to him to tell the ‘truth’. This belief that the suspect was present was based on information received during the investigation.
115. We are of the view that the information at Police’s disposal at the time the suspect was interviewed was not capable of supporting a conviction in the absence of an admission by him. It should have been abundantly clear to Police that this information was neither persuasive nor admissible and would likely present significant issues at trial.
116. We note that Detective Superintendent Fitzgerald and others we spoke to denied they were solely focused on getting a confession from the suspect and say they were open-minded to the possibility that he was not present at the murder. Detective Superintendent Fitzgerald told us that ongoing engagement with the suspect was the goal, not a confession, considering that the chances of getting a confession are generally low.
117. Based on our observation of the interview, we do not find this credible. While Police are entitled to challenge a suspect’s account, there are limits on what is acceptable. Referring to inconsistent evidence is the usual method, but in this case Police had very little credible evidence to rely on and were not able to point to any solid basis for their rejection of the suspect’s statements. By constantly rejecting his claim he was not present, the Police overstated the strength of their case that he was involved in the murder (which is a feature of the Reid Technique). We agree with the conclusion reached by the Judge that Police went too far and that, although the questioning was not oppressive in the sense of being aggressive or intimidating, it was unnecessarily persistent and had the effect of wearing the suspect down. This type of

interrogation is known to carry the risk of inducing a false confession. Suspects who are faced with constant rejection of their account may adapt their responses to please the interviewer, especially in cases where the interviewer has gone to great lengths to build rapport with them.

118. In Case 2, it had been determined that the baby's injuries could have been precipitated by severe shaking but were also consistent with several explanations given by the person who was looking after the baby at the time she was hospitalised. It is evident that the original Police investigators were dissatisfied with these explanations, which evolved over time and, in part, reflected a hypothetical scenario put to the person by investigators. With further progress stalling, the baby's death was deemed accidental.
119. In this light, it is understandable that the CIPEM team was motivated to make headway in 2019. The account given by the person of interest was embellished over the course of the 1985 Police investigation, with questions being raised regarding its plausibility: the baby's injuries seemingly resulting from a catalogue of accidents and the scene reportedly inconsistent with the person's description of it. The account could also be interpreted as being inconsistent with prevailing medical opinion. Therefore, armed with a new interview methodology, there was fresh impetus to find answers for a grieving family who were, understandably, seeking redress and closure.
120. While this possibly contributed to the pursuit of an account that accorded with the premise that the baby's injuries were caused by excessive shaking, the sustained and persistent nature of the interview over a prolonged period in our view went too far and was unjustified. The interviewee was highly distressed and upset while attempting to give an account of what happened. In that context, repeated questioning that called into question the credibility of her account and implicitly encouraged her to "*come clean*" ran the risk of eliciting an incriminating statement through undue psychological manipulation (see the discussion above, paragraph 46(7) and (8)).
121. In respect of Case 5, Police were in a similar situation to Case 4 in that they had unsupported information (of itself insufficient to support a conviction) they were relying on to progress enquiries. However, while the interview of the suspect in Case 4 presented a challenge for Police, the interviewee in Case 5 who admitted to the woman's murder seemed resigned to the inevitability of their fate and admitted responsibility within one hour of sitting down with an officer. Although tactics that can be attributed to CIPEM are evident during this interview, the comments were not in our view excessive, and the interviewee admitted their role in the woman's death (somewhat unexpectedly and without any particular pressure being applied) and implicated others in the process.
122. In the remaining cases we examined (Case 1 and Case 3), there was no single piece of credible information that pointed explicitly towards a suspect. In our view, neither of these interviews was problematic, with both interviewees willingly cooperating in the interview process and being resolute in their responses.
123. In our view Case 4, and to a lesser extent Case 2, demonstrate what can go wrong when Police use an interview to try to confirm a specific 'truth', rather than to gather as much information as possible from the suspect as recommended by the PEACE model. In both cases, Police had information that pointed to an individual being responsible for an offence, and concerted effort

was made to encourage that individual to give an account that fitted the most likely hypothesis Police had developed. Of note, the cases were complex, or cold cases that had stalled. They were not cases that were in their infancy with Police adopting a blinkered view or preferring a particular narrative to the detriment of all other reasonable explanations. A significant amount of time and energy had already been invested in these investigations, and it was not unreasonable for enquiries to be more tightly focused on specific individuals and a narrower range of circumstances by the time CIPEM was used. We are unable to conclude that the Reid-like application of some CIPEM techniques was intended; it is more likely to have been an unintended consequence of a desire to achieve a specific outcome, satisfying the needs of the investigation, and a failure to provide for adequate oversight and moderation of the methodology's application. That, however, is not to say that Police use of CIPEM in this way was justified.

#### *Use of RMJ / unfair explanation of the substance of evidence*

124. Guideline 4 of the Chief Justice's Practice Note on Police Questioning requires Police to explain fairly the substance of any statements made by others and/or the nature of evidence they are questioning the person about.
125. We have found that some of the interviews we examined failed to adhere to this guideline in two respects.
126. First, a technique we encountered in nearly all the cases we examined was the suggestion that the person would be able to 'get on with their life' if they told Police the truth. Other comments included that *"it was a different world back then"* and *"these things happen"*. At worst, an interviewer introducing these kinds of comments can be seen as minimising the crime and the consequences that will follow if the person confesses to it. In the case of a serious crime, the person is not going to be able to get on with their life because they will likely be facing a trial and possibly imprisonment.
127. One example of this approach is evident in the interview of the suspect in Case 2 (which involved the death of a baby). As detailed at paragraph 74, the interviewee was told that a burden would be lifted if they told the truth. The consequences of any admission were downplayed, with the interviewer deliberately focussing on short-term outcomes (e.g. that *"today"* they will walk out of the Police station and go home), while actively avoiding any discussion of long-term consequences (e.g. prosecution).
128. It is difficult not to attribute this conduct, at least in part, to CIPEM, with its focus on engagement, and building and maintaining rapport. To borrow from the Judge in Case 4, we consider that *"commitment to the interview process and principles has seen the [interviewer] place priority on maintaining connections and the relationship"* at the expense of candour. The continual effort to keep the interviewee onside could have led to an iterative cycle where Police minimised/attempted to rationalise any consequences while they sought an account that was consistent with medical opinion. However, it could equally be attributed to poor interviewing practices and oversight.

129. This situation was no doubt compounded by the interviewee's inability to articulate clearly what happened, which resulted in a protracted interview and the overuse of tactics that sought to coax full disclosure from the interviewee.
130. Detective Superintendent Fitzgerald told us that these types of comments were not meant to deceive or manipulate people, but to encourage them to get rid of their burden by telling the truth. He did not believe that any of the interviewees would have been ignorant of the likely consequences if they confessed to a crime. However, he acknowledged that it was a fine line between using these comments appropriately and going too far.
131. Again, the only cases where we felt this technique was problematic were Case 2 and Case 4. That is because, as with the questioning itself, the use of the technique was persistent and for no other purpose than to overcome the interviewee's unwillingness or inability to impart the information the Police wanted.
132. Secondly, we observed that some of the questioning involved RMJ (rationalisation, minimisation and justification – see paragraph 46(8)) to downplay what had happened and help the suspect justify their actions (assuming they are guilty).
133. In Case 4, the Judge found that one of the interviewer's repeated use of the term "*accidental*" to describe what happened on the night of the woman's death was misleading and breached Guideline 4. Police had previously described the killing as an "*execution*".
134. As discussed above, this is a feature of the 'Appeal' phase of CIPEM that uncomfortably echoes the Reid Technique, which involves giving misleading information excusing the behaviour and/or minimising the consequences to induce an incriminating statement.
135. There is a conflict here between how Detective Superintendent Fitzgerald says he taught interviewers to use RMJ (only when raised by the suspect) and how it was presented in the Manual and used in Case 4.
136. Detective Superintendent Fitzgerald denies that it was inappropriate for Police to suggest that the woman's homicide could have been accidental, because there was some evidence from an informant to support that theory and the investigation team wanted the interviewers to explore it. We accept that it was a valid possibility to discuss with the suspect but agree with the Judge that the way it was introduced and continued to be raised by the interviewer was misleading and manipulative. This was not a case where the interviewers allowed the suspect to raise the idea and simply explored it. It went much further and was more consistent with how RMJ is used in the Reid Technique.

#### *Excessive manipulation/misleading the interviewee*

137. This featured to varying degrees in three of the cases we examined: Cases 2, 4 and 5.
138. The Judge found there was "*excessive manipulation*" by the interviewers in Case 4. In his judgment he described how the interviewers built up rapport with the suspect and explored his values, appealing to his leadership qualities, his bravery and his sense of responsibility to do the



right thing. After some time, they introduced the idea that the suspect had been given an opportunity and *“this needs to be sorted out today”* because *“someone else could say something completely different”*. Towards the end of the interview and after persistent questioning and rejection of his account as described above, the interviewers demanded that the suspect listen to them and said his life had now changed. The suspect was left thinking he had implicated others in the crime, and this appears to have motivated him to make admissions in his second interview.

139. We agree with the Judge that the interviewee in Case 4 was misled in respect of his predicament. A sense of urgency was created by the interviewers who insisted they were doing the interviewee a favour by reaching out to him and giving him an opportunity to tell them what had happened before anyone else (as if this process was somehow separate from the Police investigation in general).
140. As with the breach of Guideline 4, it would be difficult to argue that CIPEM did not contribute to the *“excessive manipulation”* the Judge identified. Phase 8 of CIPEM (see paragraph 46(8)) explicitly encourages interviewers to use *“moral and emotional pleas”*, to confirm the suspect is listening and to *“ensure the suspect understands that their world has now changed”*. These tactics appear to come directly from the world of CHIS handling and, while they may have their place in that realm, are largely inappropriate for an evidential investigative interview. This was a case where Police pushed the boundaries of what is acceptable and, as the Judge determined, exceeded them.
141. We spoke to the interviewers in Case 4. Both acknowledged that it was a *“messy”* interview and told us they were not surprised it was challenged in court. One also told us they were uncomfortable with the ‘Appeal’ phase of CIPEM because *“at times it can be quite suggestible”*. They said it was difficult because there was not much evidence to work with. Even after the suspect made admissions in the second interview, the interviewers expected that the investigation team would need to gather further evidence to corroborate the confession before Police would be able to charge the suspect. However, it was up to the investigation team to decide whether to lay any charges, not them.
142. In respect of Case 5, we have already noted two occasions where Police misrepresented the strength of their case with a view to eliciting a response from the interviewees (see paragraphs 90 and 93). We are satisfied this was due to poor practice and not an inherent feature of CIPEM.

### Failure to record off-camera conversations

143. Guideline 5 of the Chief Justice’s Practice Note on Police Questioning states:

*“Statements should be recorded on video unless that is impractical or the person declines. If not recorded on video, the statement must be recorded on audio tape or in writing. The person must be given the opportunity to review their statement and correct any errors or add anything further. If the statement is in writing, the person must be asked if they wish to sign it to confirm it is correct.”*



144. In Case 4, the Judge identified three occasions where Police had conversations with the suspect that were not recorded: on their initial contact with him at prison where they invited him to the first interview (including the car ride to the Police station); and during two breaks in that interview. If they could not record the conversations while they were happening, best practice would have been for the interviewers to record what had been discussed on video at the start of the interview and after any breaks. However, the Judge determined that did not occur in this case and that Police had breached Guideline 5:

*“At this point it is enough to conclude that there have been repeated and serious breaches of Guideline 5 which have the effect of subverting the purposes of that Guideline. I must infer experienced interviewers understood the rules and must have anticipated a breach was occurring. The most favourable view I can take is that commitment to the interview process and principles has seen the officers place priority on maintaining connections and the relationship at the expense of the lawful processes.”*

145. In Case 5, a conversation between Detective Superintendent Fitzgerald and the interviewee who denied any involvement in the murder when spoken to on 25 October 2019 was subject to scrutiny during the interviewee’s 2023 trial. It transpired that Detective Superintendent Fitzgerald had spoken to the interviewee after the interview had concluded. Detective Superintendent Fitzgerald recalled that this conversation was very brief and solely focused on ensuring that the interviewee had the opportunity to re-engage with Police at a later stage. No record of this conversation was available at trial. Detective Superintendent Fitzgerald told us he did make notes of the conversation but that his notebook had been lost well before the interviewee’s trial. We have confirmed that Detective Superintendent Fitzgerald had reported to two colleagues that a notebook belonging to him was missing at around the time when he was unable to locate it. We accept that a notebook went missing, as a result of which we are not able to ascertain its contents.
146. Unplanned conversations may evolve organically during breaks (and they will inevitably do so on occasion, often at the instigation of the interviewee). When this occurs, they cannot be contemporaneously recorded. In that event, good practice is that the substance of what was discussed should be outlined as soon as the interview resumes, and the interviewee asked to confirm that the outline is accurate. In most of the cases we have reviewed, that is what occurred. The fact that it did not happen in at least Cases 4 and 5 was bad practice, and it is surprising and concerning that it was engaged in by experienced investigators who would have, or at least should have, known what was expected of them. However, we have not found any evidence that this bad practice was a specific component of the CIPEM model or was taught to the officers practising it.

### Relying on briefings from the investigation team

147. Because the CIPEM-trained interviewers were specialists who were brought in for particularly difficult cold cases, they relied on briefings from the investigation teams to prepare them for the interviews. We received different views on whether these briefings were adequate.

148. Some thought the briefings were thorough and noted that they were provided with much more extensive information about the cases than Level 3 interviewers under the traditional PEACE model receive, due to the cold-case nature of the interviews. Some also saw it as an advantage that the CIPEM-trained interviewers were not as emotionally invested in the case as the investigation team, so they could come to it fresh and be in a better position to engage with the suspect without preconceptions.
149. Others, however, said they did not have enough time to plan how to approach the interviews and come to grips with the nuances of each case.
150. In general terms, we did not determine that there was a particular problem with the briefings provided. However, we accept that in some instances the CIPEM-trained interviewers understandably felt they had not had sufficient time to plan, and that the investigation team had determined the content they were given. We were told it was the investigation teams who decided what evidence needed to be put to the suspect, and they would be in the monitor room while the CIPEM-trained interviewer conducted the interview. Some of the CIPEM-trained interviewers said they later found out there was a lot of information the investigation team had not passed on to them, which was disappointing and made them reluctant to become involved in other people's investigations.

### Concluding remarks

151. There were a number of features of CIPEM that were clear advances on the PEACE model, as it was originally implemented by New Zealand Police. Engagement with prospective interviewees (as codified in phases 3 and 4 of the model) was preceded by a level of planning and preparation that had previously been confined to the realm of source handling (as codified in phases 1 and 2). The systematisation and wider dissemination of techniques that sought to build rapport, while dismantling any perceived power imbalance between interviewer and interviewee, led in all the cases we examined to individuals voluntarily participating in Police interviews to talk about an historic case. In some instances, they had been the person suspected of committing an offence by the original investigation team.
152. As previously stated, the cases we examined were generally cold or complex cases. All interviewees had previously been spoken to by Police. Despite statements, or other written records, being available to the interview team, these were neither produced nor explored during interviews, with there being no methodical breakdown of earlier accounts, or systematic exploration of topics arising. There were no attempts to obtain uninterrupted accounts from any of the interviewees, as per the PEACE model (possibly because of earlier involvement with Police).
153. As a result, while the CIPEM methodology broadly conformed with the PEACE model, it did not follow the same structured approach. Instead, the challenge and appeal phases dominated the interviews. That is because the interviewers were already in possession of the accounts provided by the interviewees during the earlier investigation and were questioning them either about perceived inconsistencies in their evidence that had not been thoroughly explored as part of the

earlier Police investigation or about discrepancies between their evidence and other information that had subsequently come to light.

154. We do not see anything problematic about this. It would have been unnecessary for the interviewer to get the interviewee to repeat full accounts of their evidence, which would potentially have undermined any rapport they had established. But in three of the cases, we have examined we have found challenges posed and appeals made were open to criticism for three related reasons.
155. First, the questioning was sometimes persistent, prolonged and rather unstructured. That was particularly evident in the interviews of the person of interest in Case 2 and of one of the persons of interest in Case 5. Police should have been more methodical in their approach, by revisiting earlier accounts and challenging inconsistencies in a way that was more consistent with the PEACE model of interviewing (i.e. raising awareness of an anomaly, seeking clarification and moving on). As it was, it is difficult to escape the conclusion that Police, through their prolonged and repeated challenges and appeals, were tenaciously pursuing an admission regardless of repeated denials.
156. Secondly, there were instances of undue *“rationalisation, minimisation and justification”* techniques, especially in Case 2 and Case 4, that were reminiscent of the Reid model. Interviewers actively introduced themes, relating to both explanations for the offence and the consequences for the interviewee, that appeared designed to induce an admission.
157. Thirdly, there was a tendency to challenge a denial because it was inconsistent with other information available to them even when that information was inherently unreliable. For example, as previously stated, in Case 4 Police consistently rejected the suspect’s denials and persisted in their pursuit of an account consistent with information in their possession that was of dubious reliability and unlikely to be able to be presented in the event of a charge and subsequent trial. This was akin to the Reid technique; the danger of this approach is evident in the fact that the suspect made an admission and then swiftly retracted it, during the course of what was otherwise a meandering and confusing account that lacked structure.
158. However, some of these practices appear to have been the result of the way in which the CIPEM model had been taught, rather than any fundamental flaw with the CIPEM model itself. In short, they are a result of poor implementation (and probably problems that arise in many other Police interviews).
159. Having said that, it must also be said that a failure to follow basic principles of Police good practice, such as maintaining written records and documenting interactions, has compounded problems associated with the CIPEM methodology.

#### TO WHAT EXTENT CAN THESE PROBLEMS BE ATTRIBUTED TO DETECTIVE SUPERINTENDENT FITZGERALD?

---

160. Detective Superintendent Fitzgerald was much more involved in the interviews than would usually be expected of a senior officer. He attended all the *“CIPEM”* interviews in the five cases

we reviewed and often made the initial phone call to the interviewees to ask that they speak to Police. However, he did not take ownership of these cases from the investigation teams. He assumed the role of Officer in Charge of the interviews temporarily and had direct oversight, including preparation, briefing, rehearsal and interviews.

161. Detective Superintendent Fitzgerald told us that he observed the interviews because CIPeM was still in its early days, and he needed to “provide governance” and see how it was working in practice. When he attended interviews and watched from the monitor’s room, there was also a dedicated monitor from the investigation team whose role was to ensure the interview covered everything it needed to. Detective Superintendent Fitzgerald said his role was primarily to assess how well the interviewer was engaging with the interviewee.
162. While Detective Superintendent Fitzgerald’s presence on this basis was entirely appropriate, there were several problems with the way this played out in practice.
163. First, notwithstanding his assertion that his role was limited to gauging the level of engagement between interviewer and interviewee, it would have been prudent for him to at least record his presence in the monitoring room and detail the role that he was performing.
164. Secondly, it is clear that in a number of cases he was actively guiding the interview. The interview in Case 2 is a prime example. The interviewer regularly interrupted the prolonged interview, giving the interviewee a variety of reasons for doing so (obtaining a file; making a phone call etc.), and it is clear that the interviewer was obtaining advice as to how the interview should be progressed. Detective Superintendent Fitzgerald was involved in providing that advice, if not primarily responsible for it. While there is nothing objectionable about that, a record of the advice should have been kept. Without such a record, it is left unclear who may be responsible for any problematic practices that are subsequently identified and gives rise to the suspicion that Detective Superintendent Fitzgerald was attempting to underplay his involvement and avoid accountability for any problems that might subsequently be identified.
165. Thirdly, given that Detective Superintendent Fitzgerald was actively involved, he must bear some, if not primary, responsibility for some of the objectionable interviewing practices we have outlined above. In at least Cases 2 and 4, he should have intervened, and his failure must be interpreted as tacit acquiescence with the tactics being used.
166. When the issues with these interviews emerged, a Stuff article on 6 April 2022 was published featuring excerpts of an interview with Detective Superintendent Fitzgerald. Commenting on the interviews that received negative comment by the Judge in Case 4, the Detective Superintendent stated: “*In all parts of our interviewing, we rely on the interviewing team to do their absolute best and stick with the absolute model that is put in place. Will there be mistakes? Of course there will be - we’re not naive enough to think there won’t be.*” In a subsequent article, published on 3 September 2023, it was reported that he had blamed the interviewing officers for any shortcomings in the interview of the suspect in Case 4, with unidentified Police sources claiming that he had “*thrown them under a bus*”.
167. Detective Superintendent Fitzgerald told us that it was not his intention to criticise the interviewing officers. He was trying to distinguish between basic mistakes that were made (i.e.,

unintentional failings on the part of *all* team members, himself included) and CIPEM-specific issues, such as the Judge's assertion that elements of the appeal phase had been used to unacceptable excess.

168. The interviewers in the contentious interview of the suspect in Case 4 told us they accepted Detective Superintendent Fitzgerald's explanation that he had been misquoted by the media, and it was not his intention to apportion blame. They noted that the Judge's criticism had resulted in "*learnings*" and led to the removal of the appeal phase delivered as part of CIPEM training. Concerning the sustained media criticism of Detective Superintendent Fitzgerald and CIPEM, one of the interviewers described Detective Superintendent Fitzgerald as a polarising character who, during his time as a Crime Manager in Canterbury District, had generated professional jealousy and animosity over a period of time. It was suggested that the interviewers had "*become collateral in someone else's beef with [Detective Superintendent Fitzgerald]*".
169. We accept that this was the case, and that Detective Superintendent Fitzgerald did not set out to evade responsibility and lay blame for the identified shortcomings on members of his team. However, we repeat that some of the issues in this respect could have been avoided if, as discussed above, a complete record of the role of all interview monitors and any advice they provided had been kept. We also take the view that when adverse media scrutiny arose, the Police Executive generally should have done more to support and protect CIPEM practitioners, who were performing a role sanctioned by Police. This is discussed further in the next section of this report.
170. Finally, we reiterate that CIPEM was a laudable attempt to address several obvious problems with the way in which the PEACE interviewing model had been implemented over time. The deficiencies in the implementation of the model could have been avoided if it had been properly peer reviewed by an independent expert before implementation, been exposed to wider input from the organisation as a whole and received more formal and documented organisational approval. The fact that this did not occur exposed the officers involved, including Detective Superintendent Fitzgerald, to unfair criticism.

## Police response to the criticisms

171. During our review of CIPEM, several people commented that the judgment in Case 4 and the subsequent media fallout will not help Police officers to overcome a lack of confidence in their interviewing skills. However, some also expressed the view that only a crisis like this would motivate Police leadership to start properly addressing the problems with investigative interviewing; a view with which we have some sympathy.

### WHAT HAPPENED AFTER THE HIGH COURT JUDGMENT REGARDING CASE 4?

---

172. Police do not appear to have been aware of any significant problems with CIPEM before the issues arose in Case 4 and the judgment was handed down in September 2021. Indeed, the interviewers in Case 4 were initially praised for getting a confession from the suspect (as they were after ‘successful’ interviews in Case 2 and Case 5). However, we note that the interviewers and Detective Superintendent Fitzgerald told us they knew there were problems with the confession in Case 4 and were surprised when the investigation team decided to charge the suspect. They also said they did not know about other serious deficiencies in that investigation which later caused difficulties and prompted an internal review.
173. Detective Superintendent Fitzgerald told us he was the one who sought that internal review of the investigation, but the Assistant Commissioner: Investigations was reluctant and initially refused to authorise it. Eventually the review was approved by another person relieving in that role. The Assistant Commissioner: Investigations told us she did not refuse to authorise the review but was considering the matter and assessing what reviews and debriefs had already taken place before she went on leave. She says the fact that the review was approved by a reliever was “*merely due to timing*”.
174. In any event, Detective Superintendent Fitzgerald and other officers were extremely disappointed that Police declined to release the findings of that review (apparently due to legal privilege) and failed to correct or put into context the perception that the CIPEM-trained officers were solely responsible for the case’s failings.
175. In fact, many of the CIPEM-trained officers we spoke to felt they had been abandoned by Police leadership in the wake of the media criticism. One summed up their experience by quoting the proverb: “*Success has many fathers, while failure is an orphan.*” We were told that Police leadership actively avoided requests for support from the officers, who were subjected to an unprecedented level of media scrutiny that caused them and their families an enormous amount of stress. As already noted, they had been using an interview model that Police approved and trained them in.
176. In our view, Police should have done much more to support the officers and proactively correct the perception that CIPEM alone caused the downfall of the prosecutions in Case 4. We are also of the view that Police should not have withheld the findings of the internal review of the Case 4 investigation. However, we understand that Police and the Ombudsman are in “*active*

*discussions*” regarding a complaint about this issue, and therefore we will not make any recommendation on it.

## WHAT WAS THE OUTCOME OF THE REVIEW OF CIPEM?

---

177. As noted above, Detective Superintendent Fitzgerald told us he had always intended to have CIPEM peer reviewed. In June 2021, after issues were raised in a pre-trial conference for Case 4 (and before the Court judgment was issued), he contacted Dr Mary Schollum. Dr Schollum is based in the United Kingdom but had previous experience working with the New Zealand Police on investigative interviewing and had assisted in the implementation of the PEACE model about 15 years earlier.
178. Dr Schollum was aware of the issues that had arisen with investigative interviewing following the initial roll-out of PEACE training, so she was interested in CIPEM and agreed to review the CIPEM manual, and pre-course reading, and consider where it fit within the PEACE model. Police provided her with four short documents and some PowerPoint slides outlining the model and the training material.
179. Dr Schollum produced a draft review report in October 2021. She noted that CIPEM was a hybrid model (like PIM) and concluded that half of phase 7 and all of phase 8 (see paragraph 46) were inconsistent with international best practice, identifying that they embodied an *“accusatory, confessions-driven approach”*. She provided this draft to Detective Superintendent Fitzgerald and they subsequently had several discussions in which he defended the model.<sup>15</sup> He ultimately convinced her that, although some of the material was poorly worded, CIPEM did not involve a presumption of guilt or the use of misleading techniques (such as interviewer-led use of rationalisation, minimisation and justification).
180. Dr Schollum’s final report (dated November 2021 and finalised in September 2022) concluded that CIPEM was consistent with international best practice. She commended its emphasis on engagement and acknowledged that it provided more guidance on that subject than the traditional PEACE model. Nonetheless, she remained of the view that the PEACE model was the most appropriate one for Police to use and could be bolstered by adding some of CIPEM’s rapport-based/engagement-focused features. She recommended replacing the name CIPEM with *“PEACE Plus”* to reflect those enhancements and emphasise that Police were still using the PEACE model. However, she told us she later regretted this suggestion because it caused misunderstandings when the media thought CIPEM was still being used and just had a different name.
181. Dr Schollum was contracted to draft a new manual entitled PEACE Plus, which she did over 2022 (including visiting New Zealand in June 2022). The emails between them show that Detective

---

<sup>15</sup> According to Dr Schollum, Detective Superintendent Fitzgerald spent nearly 10 hours on telephone calls with her going over every aspect of CIPEM.



Superintendent Fitzgerald undertook to provide her with a redacted version of the judgment in Case 4 on 21 March 2022, but it appears this did not occur.

182. The Judge's decision was published on 28 September 2021, but Dr Schollum was not given a copy of it or of the interview transcripts. Dr Schollum told us that, when she later read the judgment and observed the interviews, she completely agreed with the Judge's comments about "*excessive manipulation*". She felt that Detective Superintendent Fitzgerald had misled her about the substance of the criticisms and downplayed them by saying that they were mainly about the interviewers being too nice. Detective Superintendent Fitzgerald told us he had discussed the issues in Case 4 many times with Dr Schollum and had no intention of misleading her. He said there was no reason why Police would have withheld the judgment from her if she asked for it and it was available.
183. When we spoke to Dr Schollum, she said she believed Detective Superintendent Fitzgerald genuinely wanted to improve officers' skills and knowledge on interviewing suspects when he created CIPEM. However, she now feels that Detective Superintendent Fitzgerald misled her to ensure she would provide a favourable review of the model. She was concerned that he:
- a) brushed off her concerns about CIPEM being a hybrid model and did not acknowledge that (in her view) it was influenced or inspired by the Canadian PIM model (see paragraphs 27-30);
  - b) repeatedly asserted that CIPEM in no way resembled the Reid Technique (see paragraphs 19-20) and denied that interviewers were taught to minimise the offence, despite Case 4 suggesting otherwise;
  - c) did not provide her with the judgment or the interview transcripts from Case 4; and
  - d) agreed that the CIPEM manual needed to be rewritten, but apparently it never was (although Police decided to replace CIPEM after the review of the manual had started, so a rewrite may no longer have been considered necessary).
184. While Dr Schollum felt there was enough evidence to say that Detective Superintendent Fitzgerald deliberately misled her to get a positive review of CIPEM, she accepted that he may have gone to great lengths to convince her of the model's value because he was blinded to its faults and genuinely believed it to be ethical and effective.
185. In our assessment, Dr Schollum is justified in feeling aggrieved based on her interactions with Detective Superintendent Fitzgerald. She should, as a matter of fairness and openness, have been provided with both the Case 4 judgment and the transcripts of the interviews that were criticised in that judgment. This would have put her in a materially better position to reconsider whether her original criticism of the model was sound.
186. However, we do not think it likely that Detective Superintendent Fitzgerald was generally motivated to deceive her. We think it is more likely that, given his personal investment in and commitment to the model, and the pressure that he was under at the time as a result of Case 4, he was simply motivated in the short term to defuse rather than add to criticism. Any more



blatant plan to deceive her would be inconsistent with the fact that he and two other members of the CIPEM team actively engaged with Dr Schollum with a view to inviting her to New Zealand to assist in the further development of the model and observe/evaluate the training, which led to her visiting in June 2022. It should also be remembered that the features of the interviews that were criticised in Case 4 were by no means an inherent component of CIPEM. It is likely that Detective Superintendent Fitzgerald was concerned, consciously or unconsciously, to minimise the prospect of Case 4 tainting the whole model.

187. In her final report Dr Schollum also recommended that Police:

- a) draft a new PEACE Plus manual;
- b) improve interview rooms;
- c) add PEACE Plus training to the existing interviewing training structure as a Level 3 Specialist course (covering suspects and hostile/intimidated witnesses);
- d) add a Level 4 Interview Advisor role to the training structure; and
- e) *“review current interview training at every level to ensure it reflects the investigative interviewing framework and rapport-based approach necessary to implement the PEACE model effectively”.*

188. We were told that phase 8 of CIPEM (Appeal) was removed from the training before the last course ran in April 2022. Some of the people we spoke to believed that, with Dr Schollum’s input, the more problematic aspects of CIPEM would have been ironed out and they would have ended up with a more robust approach in time.

189. Instead, the subsequent negative media attention resulted in a decision by Police to drop CIPEM altogether. During 2022 the media articles highlighting criticisms of CIPEM and Detective Superintendent Fitzgerald began coming out. By the end of 2022, Police had begun an internal review of Police investigative interviewing training (which we discuss further below) and Dr Schollum suggested abandoning the name PEACE Plus for the new Level 3 training due to its association with CIPEM. In February 2023 she agreed with Police that the PEACE Plus manual would be turned into a best practice manual to cover all levels of interviewing training. This draft manual was then peer reviewed by another international expert in investigative interviewing in November 2023 and approved by the Police Executive.

## WHAT DOES THE POLICE REVIEW OF INVESTIGATIVE INTERVIEWING RECOMMEND?

---

190. In October 2022 Police assigned a Detective Inspector to start reviewing Police investigative interviewing practices and training at all levels (Levels 1-3). This review was completed in November 2024. We have already outlined some of the problems identified in that review and described to us above at paragraph 33.

191. The review acknowledged that effectively obtaining information from people is an essential skill for all Police officers, not just detectives. It found that the interviewing training needs to be

refreshed and modernised, and that Police need to invest in it to prevent injustice and gain long term benefits and efficiency.

192. Police are developing future training from the new best practice manual, which expands on all the elements of the PEACE model and highlights two “pillars” of ethical investigative interviewing which need to be maintained throughout, namely: i) rapport/engagement; and ii) legal and procedural safeguards (such as complying with the Chief Justice’s guidelines).

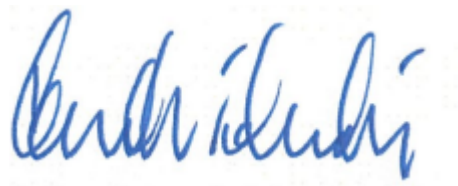
193. Other recommended improvements include:

- a) Creating a new Manager of Investigative Interviewing position within the National Criminal Investigation Group. This person will be responsible for providing strategic oversight and leadership and ensuring the ongoing development and monitoring of investigative interviewing standards.
- b) Making Foundation (Level 1) and Advanced (Level 2) investigative interviewing training available to all constabulary members and Police employees in relevant positions.
- c) Developing mandated annual refresher training packages that cover issues picked up in the moderation process and in recent case law to further develop Police practice and knowledge.
- d) Establishing Level 4 interview advisor positions to provide subject matter expertise and act in an advisory capacity operationally when required. We were told Police originally intended to have these positions as part of the initial implementation of the PEACE model.
- e) Extending Level 3 specialist interviewing training (currently limited to interviewing adult sexual assault victims and children) to cover interviewing in respect of suspects, critical incidents and reluctant witnesses to serious crimes.
- f) Promoting legislative and practice change to broaden the use of Police Video Recorded (PVR) victim and witness statements across a wider range of offence types.
- g) Investing in new cloud-based recording technology (ideally with automatic transcription) to enhance the Police’s ability to facilitate monitoring, and in purpose-built victim and suspect interviewing rooms.

## Recommendation

194. We recommend that Police proceed with establishing the proposed Manager of Investigative Interviewing role, which should focus among other things on:

- a) developing the new investigative interviewing and engagement training and making it available to all staff;
- b) ensuring that the interviewing trainers have a high level of operational experience and excellent engagement skills; and
- c) creating Level 3 training for interviewing suspects and hostile witnesses.



**Judge Kenneth Johnston KC**

Chair  
Independent Police Conduct Authority

29 May 2025

**IPCA: 22-15213**

# 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](http://www.ipca.govt.nz)

---