

Allegation of Police interference in complaint process

OUTLINE OF EVENTS

1. Police had been talking to Mr X in relation to an ongoing investigation. On 20 July 2018, Police went to Mr X's workplace to speak with him, because items of interest to their investigation had been couriered to him there.
2. Police did not disclose the reason for their visit to Mr X's employer. Mr X's employer placed Mr X on restricted duties the same day. Mr X believed this was due to the Police visit.
3. On 17 August 2018 there was a difficult telephone call between Mr X and Officer A. Following the call, Mr X laid a complaint with the Authority, mainly concerning the change in his employment conditions after the Police visit on 20 July. At the same time, Mr X continued to help Police with their enquiries.
4. On 22 August 2018, the Authority notified Police of the complaint and asked for some further information relating to the complaint. In the process of gathering this information, Officers B and C considered Mr X's cooperative attitude in their ongoing investigation. The officers decided to contact Mr X and find out if he was still concerned by the matters raised in his complaint. Officer C called Mr X to discuss this, and Mr X told Officer C he was not going to pursue his complaint with the Authority.
5. On 14 September 2018, an Authority staff member telephoned Mr X. Mr X told the Authority he was coerced into withdrawing his complaint.

THE AUTHORITY'S INVESTIGATION

6. The Authority conducted an independent investigation into Mr X's claim that Police had coerced him into withdrawing his complaint.

7. In doing so, the Authority:
 - met with Mr X;
 - spoke with Officer A ;
 - reviewed Police files of the investigation and contact with Mr X;
 - spoke with Mr X's employer; and
 - reviewed information provided by Police.

THE AUTHORITY'S FINDINGS

Did Police pressure Mr X into withdrawing his complaint with the Authority?

8. Items of interest in an ongoing investigation had been couriered to Mr X at his work address. On 20 July 2018, Police visited Mr X at his workplace to make enquiries about these deliveries. On the same day, Mr X was placed on restricted work duties by his employer. Mr X's employer later confirmed that this was unrelated to the Police visit to the workplace.
9. On 17 August 2018, Officer A telephoned Mr X to arrange an interview regarding the same matter. Mr X became angry during the phone call, blaming Police for his employer's decision to place him on restricted duties.
10. Just over an hour later, Mr X made a complaint to the Authority. The complaint centred on Mr X's change in work status, and Mr X asked for monetary compensation from Police to cover his loss of earnings. Mr X later returned Officer A's call, and arranged to meet him for the investigation interview in the afternoon of 17 August. Police thought Mr X was cooperative and the relationship was amiable.
11. On 22 August, the Authority notified the Commissioner of Police of Mr X's complaint and asked Police National Headquarters (PNHQ) to collect and provide more information relating to it. PNHQ passed the Authority's request to Officers B and C, as the supervisors of Officer A, and as they had also dealt with Mr X.
12. Officer C gathered the information and sent it to Officer B on 3 September. Officer C included a covering note which pointed out the improved relationship between Mr X and Police. He suggested Police contact Mr X to check whether his complaint had been resolved. Officer B agreed, and asked Officer C to follow this up.
13. Over the next ten days, Officer C made a number of unsuccessful attempts to contact Mr X.
14. On 12 September, Mr X called Officer C. Mr X told Officer C he had been aggrieved at the way he was treated when Police visited him at his work on 20 July, but he did not want to take the complaint further. Mr X then emailed Officer C confirming he would not pursue his complaint with the Authority.

15. On 13 September Officer C emailed Officer B and advised him that Mr X was not pursuing his complaint. Officer B passed this email on to PNHQ as a response to the Authority's request for information. He did not include the information Officer C had gathered in response to the Authority's request (provided to Officer B on 3 September).
16. The Authority, unaware of these interactions, called Mr X on 14 September. Mr X told the Authority he had been made to withdraw his complaint.
17. Shortly after this phone call, PNHQ emailed the Authority, advising that Mr X was withdrawing his complaint. PNHQ included a copy of Officer C's 13 September email. The Authority, having been told by Mr X that he felt coerced into withdrawing his complaint, made a new request for information from PNHQ, to establish what discussions Police had with Mr X about the complaint.
18. On 19 September 2018, the Authority received all the information requested from Police in their requests on both 22 August and 14 September.
19. The Authority reviewed the information provided by Police. An Authority investigator met with Mr X, and discussed the circumstances around his email to Officer C advising that his complaint was being withdrawn. Mr X's hopes for financial compensation from Police were rekindled when the Authority telephoned Mr X on 14 September (the Authority, at the time of the call, being unaware that Mr X had decided to withdraw his complaint). To this end, Mr X told the Authority he was coerced into withdrawing his complaint. Mr X has now confirmed that he was not pressured by Police to withdraw the complaint and the Authority accepts this.
20. The investigator also spoke with Mr X's employer. The Authority is satisfied that Police actions did not influence Mr X's employer in making decisions about Mr X's employment. Therefore there were no grounds on which Mr X's original complaint of 17 August 2018 could be upheld.
21. Officers B and C made their decision to discuss Mr X's complaint with Mr X as a practical step in the context of an ongoing Police investigation. They knew Mr X had been dealing with Police since laying his complaint, and Mr X was being cooperative. It was relevant for them to establish whether there were outstanding problems in the relationship between Police and Mr X. The Authority finds there was no attempt to undermine the Authority's complaint process and Officer C did not coerce Mr X into withdrawing his complaint.
22. However, the overlap in timing of the various conversations between the Authority, Mr X, and Police led Mr X to consider whether he might reignite his claim for financial compensation. In order to do so he claimed he was coerced into withdrawing his complaint, and at that time the Authority had no evidence to the contrary. Had Police kept the Authority informed when they discussed Mr X's complaint with him, and ensured that Mr X contacted the Authority to discuss his decision to withdraw his complaint, any perception of coercion would have been avoided.

FINDING

Police did not pressure Mr X into withdrawing his complaint.

CONCLUSIONS

23. Mr X withdrew his complaint willingly, without being pressured to do so. Police acted reasonably in contacting Mr X, and no undue pressure was applied by any officer.
24. However, the overlap in timing of the various conversations between Police, Mr X, and the Authority, without sufficient communication between Police and the Authority, created a perception that supported Mr X's statement that he had been pressured to withdraw his complaint.
25. If Officers B or C had communicated with the Authority before contacting Mr X to discuss the complaint, the perception of coercion would have been avoided.
26. When talking to a complainant who decides to withdraw their complaint, it would be helpful for Police to consider if the complaint was made directly to the Authority (rather than being notified to the Authority by Police), and involve the Authority in the withdrawal process.



Judge Colin Doherty

Chair
Independent Police Conduct Authority

9 May 2019

IPCA: 18-0374

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.

It is not part of the Police – the law requires it to be fully independent. The Authority is overseen by a Board, which is chaired by Judge Colin Doherty.

Being independent means that the Authority makes its own findings based on the facts and the law. It does not answer to the Police, the Government or anyone else over those findings. In this way, its 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 complaints alleging misconduct or neglect of duty by Police, or complaints about Police practices, policies and procedures affecting the complainant in a personal capacity;
- investigates, where there are reasonable grounds in the public interest, incidents in which Police actions have caused or appear to have caused death or serious bodily harm.

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 of investigators, report writers and managers. At significant points in the investigation itself and in the preparation of the report, the Authority conducted audits of both process and content.





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