



IPCA

Independent Police
Conduct Authority

Mana Whanonga Pirihiimana Motuhake

Misconduct arising from the differential treatment of a senior Police officer's son during a criminal investigation

INTRODUCTION

1. In July 2015 the Authority received a complaint about the actions of (then) Inspector Hurimoana Dennis and several of his colleagues as they related to the alleged unlawful detention of a young person in May 2015.¹ The Authority referred the complaint to Police to investigate and, following its conclusion, the Authority completed a full examination of the Police criminal and employment investigation files.
2. The actions of the officers involved in that matter and the subsequent employment proceedings have been the subject of a separate investigation by the Authority, and its findings on this will be published in a separate report.
3. In February 2018, during the Authority's review of the criminal investigation file, it located documents showing that the Police investigation team had obtained information indicating that Inspector Dennis had acted contrary to law and Police policy in relation to another, unrelated, matter.
4. In brief, the documents indicated that Inspector Dennis and another staff member (Officer C) had influenced the outcome of the Police prosecution of offending committed by Inspector Dennis' son, Mr W. While members of the Police investigation team made some preliminary

¹ Former Inspector Dennis is no longer a Police employee, but he is referred to as 'Inspector Dennis' throughout this report.

enquiries, the matter was not subject to further investigation, nor was it referred to Police Professional Conduct (PPC) or the Authority.

5. In March 2018, the Authority notified Police of the circumstances in relation to Mr W and advised that it had decided to conduct an independent investigation. Police accepted that the matter should have been referred to the Authority under the Memorandum of Understanding shared by the two organisations and, consequently, Police decided to conduct an employment investigation into the actions of Officer C.²
6. During the course of its investigation, the Authority identified other concerns about Inspector Dennis' conduct. These actions also became subject to investigation (pursuant to Section 12(2) of the Independent Police Conduct Authority Act 1988),³ as the Authority considered that they were indicative of an apparent pattern of behaviour whereby Inspector Dennis misused his position within Police and intentionally involved himself in matters in which a clear conflict of interest existed. Specifically, Inspector Dennis allegedly:
 - 1) misused his Police email account; and
 - 2) used his authority and position within Police to influence the sentencing outcome for a family member convicted of violent offences.
7. In January 2017, Police notified the Authority after Inspector Dennis allegedly attempted to influence the outcome of a traffic stop. Police conducted an investigation into the incident, which was overseen by the Authority.
8. This report outlines the Authority's findings in respect of Inspector Dennis' and Officer C's involvement in Mr W's case, and in respect of the additional concerns about Inspector Dennis' conduct.

POLICE INVESTIGATIONS

Criminal investigation: 2015/16

9. Police commenced an investigation into the actions of Inspector Dennis and other Police staff, as they related to the alleged unlawful detention of a young person in May and June 2015. As part of their evidence gathering, the criminal investigation team made extensive enquiries into Inspector Dennis' professional and personal conduct, which included a search of his office at Police, an examination of material on his work computer, and a review of his involvement in other matters involving Police.
10. In December 2015, concerns about Inspector Dennis' conduct during the investigation and prosecution of his son, Mr W, were brought to the team's attention. Members of the investigation team made a number of enquiries between December 2015 and February 2016,

² Inspector Dennis was not subject to the Police employment investigation having retired from Police before the investigation commenced.

³ Section 12(2) allows the Authority to take action in respect of any apparent misconduct by a Police employee, which appears to the Authority to relate to the matter under investigation.

which included reviewing the applicable criminal investigation files, and interviewing a number of Police staff involved in the investigation and prosecution of Mr W's offending and a Waitakere Public Defence Service staff member (who assisted Inspector Dennis and Mr W during the latter process). Inspector Dennis' Police emails were also examined, and this gave rise to other concerns about his actions, including those outlined in detail below.

11. The officer in charge of the criminal investigation accepted that these matters raised further issues about Inspector Dennis' conduct. However, he determined that as the information obtained related to employment and Code of Conduct (as opposed to criminal) matters, and was not germane to the criminal investigation, no further enquiries by the team were warranted. The files relating to Mr W's matters were archived in March 2016.
12. In May 2018, the officer in charge of the criminal investigation told the Authority that he had intended to forward these matters on to the detective superintendent responsible for the employment investigation into Inspector Dennis' actions at the conclusion of his criminal trial in 2017. He said that it was an oversight that he did not do so, accepting that this was a failing on his part.

Employment investigation: 2018

13. In May 2018, following notification of the matter by the Authority, Police commenced an employment investigation into the actions of Officer C,⁴ Auckland City's Acting District Prosecutions Manager. Police wished to examine Officer C's oversight and management of Mr W's prosecution, in terms of whether Officer C had used his position and influence to transfer the matter to Waitakere District Court (so that Mr W would be eligible for a particular restorative justice programme); and whether he failed to declare and manage Inspector Dennis' conflict of interest.
14. The Police investigation concluded that there was no misconduct on the part of Officer C, and that no further action was required.

THE AUTHORITY'S INVESTIGATION

15. As part of its investigation the Authority reviewed all applicable Police investigation and prosecution files relating to the offences committed by Mr W (and his associates), the Police file relating to the Police investigation into the actions of Officer C, and email correspondence sent and received by Inspector Dennis. The Authority interviewed four members of the criminal investigation team, the officer in charge of the investigation into Mr W's offending (Officer A), Auckland District's Diversion Officer (Officer B), the Public Defence Service staff member (Ms F), Officer C and Inspector Dennis.⁵ The Authority also reviewed documents and correspondence,

⁴ Officer C's substantive position was Waitakere District Prosecutions Manager. He had not previously been subject to interview, having been deployed overseas before the criminal investigation team had an opportunity to speak with him in 2016.

⁵ Inspector Dennis was summoned to be examined on oath before the Chair of the Authority.

which were provided by those interviewed, and obtained further information from the Northern Region Prosecutions Manager (Officer D).

16. The Authority's investigation considered the following issues:
- 1) Did Inspector Dennis use his authority and position within Police to influence the outcome for Mr W?
 - 2) Did Officer C misuse his authority and position within Police to influence the outcome for Mr W?
 - 3) Did Inspector Dennis misuse his Police email account?
 - 4) Did Inspector Dennis use his authority and position within Police to influence the sentencing outcome for a family member convicted of violence offences?
 - 5) Did Inspector Dennis use his authority and position with Police to attempt to influence an officer in relation to a traffic stop?

THE AUTHORITY'S FINDINGS

The involvement of Inspector Dennis and Officer C in Mr W's case

Outline of events - Police investigation and prosecution of Mr W and associates

17. In 2013, Inspector Dennis' son, Mr W (aged 18), and an associate, Mr X, became involved in the sale of iPhones using a Facebook page called 'Walk in Wardrobe'. While money for the iPhones was transferred into Mr W's and Mr X's bank accounts, the pair did not ever supply the iPhones to purchasers (the iPhone scam). With the exception of the use of their own personal bank account details, evidence on the Police file identifies relatively sophisticated deception, including the provision of fraudulent NZ Post documentation confirming the dispatch of the items.
18. Police received eight complaints about the iPhone scam from victims all around New Zealand over a period of a year. As complaints were made to local Police stations, and independent enquiries were commenced at a local level, Police took some time to recognise the pattern of the offending and to respond cohesively.
19. On 11 June 2014, following the receipt of two complaints, Police identified that Mr W and Mr X and two associates, Mr Y and Mr Z, were involved in the printing and sale of fake concert tickets (the concert ticket scam). Police arrested Mr Y during one of the ticket exchanges. Initial enquiries were undertaken by Police Criminal Investigation Branch (CIB) staff, and both Mr Y and Mr W were interviewed and nominated Mr X as the primary offender. During a meeting with Mr W and Inspector Dennis, the officer in charge of the file prematurely informed Inspector Dennis *"that there was no evidence which would support charging [Mr W] for the offence(s)."* The officer in charge also recorded that Mr W *"did not disclose any culpability on his own behalf"* and was *"to be considered a witness."* While it is noted from a review of Mr X's Police records

that Mr X had been involved in similar offending in respect of the iPhone scam, it appears that the extent of Mr W's involvement in the concert ticket scam was not appreciated. It is evident that the view that Mr W had a minimal role in both scams prevailed for several months before more extensive enquiries were carried out.

20. Information subsequently supplied by the concert promoters identified that 25-50 other fake tickets (with the same ticket numbers) were presented at the concert. Consequently, Police's Financial Crime Unit (FCU) assumed responsibility for the investigation into the concert ticket scam, and the file was assigned to Officer A in July 2014.
21. Later that month and in August 2014, Officer A began to receive files in respect of the complaints about the iPhone scam. In September 2014, Mr W and Mr X were interviewed about the scam and were subsequently arrested and charged for offences relating to the sale of the iPhones.
22. Having assessed the evidence in respect of the iPhone scam (and not yet appreciating the extent of Mr W's involvement in the concert ticket scam), Officer A determined that Mr W was potentially eligible for Police's 'Adult Diversion Scheme' (Diversion)⁶ and, on 8 October 2014, forwarded Mr W's file to Officer B, the Diversion Officer at Auckland Police Prosecution Service (PPS), for his consideration.
23. Auckland City's acting District Prosecutions Manager, Officer C, advised the Authority that the matter first came to his attention when Inspector Dennis contacted him to advise that Mr W had "*got himself into trouble*", and to ask him about the availability of Diversion for Mr W. Officer C said that he advised Inspector Dennis that he would look at the file and get back to him. Officer C recalled that he retrieved the file from Officer B, probably on the same day that he received Inspector Dennis' call, and reviewed it.
24. However, Officer C completed a jobsheet, dated 14 October 2014, which refers to Officer B approaching him to discuss the file on 13 October 2014. Officers B and C spoke with Officer A and her supervisor the following day to clarify some details and seek further information, and it was agreed that the matter would be referred back to Officer B to conduct a Diversion interview with Mr W. Officer C's jobsheet made no reference to having any form of contact with Inspector Dennis.
25. On 15 October 2014, despite no interview having occurred, Officer C approved Diversion for Mr W, and a note was recorded (by Officer B or C) that Officer A intended to use Mr W as a witness. However, later that same day, the Northern Region Prosecutions Manager, Officer D, determined that it would be prudent for a PPS staff member from outside the Region to review the file and confirm Police's position given "*the potential risk factors*". At Officer D's request, the file was forwarded to the Central Region Prosecutions Manager, Officer E.

⁶ Diversion provides an opportunity for some offences and/or offenders to be dealt with in an alternative manner without going through formal court prosecution. Eligible offenders can avoid prosecution and the possibility of being convicted for an offence if they complete activities within a given timeframe. This means that the Court's time can be reserved for more serious offences.

26. On 16 October 2014, and despite this decision, Officer C forwarded Officer D a 'Diversion Assessment' that he had written, which concluded that Mr W was eligible for Diversion in the circumstances. Officer C told Officer D:

"Thought it best not to mention that [Mr W] is Huri's son. Additionally made no mention of the turning of the tide⁷ strategy because it seems to me that it does not require consideration in this diversion and given Huri's position it may only muddy the waters."

27. Officer C told the Authority that he provided the report, despite Officer D seeking an independent review, because he had already started writing the report to forward to the other Auckland City District Prosecutions Manager, and *"because risk management and all that kind of stuff."* Officer C advised that it was not typical for a Diversion report to be completed at all, but:

"...because he [Inspector Dennis] was an inspector where there might be some questions asked about how the thing was dealt with, so that was the reason that I did the report, simply to let my bosses know that I'd had a good look at it, this was my reasoning, this was the outcome and what I thought was appropriate, so it was, it was a heads up but the idea was to reassure them that I'd looked at the thing properly and in line with the policy..."

28. Officer D asked Officer C to forward his report to Officer E.

29. The Authority considers that, based on the file information that was available to Officer C at that time, his report lacked balance and accuracy. The report incorrectly stated that Mr W was *"currently assisting Police as a witness"* against Mr X, failed to include relevant information (and making some unqualified statements) about Mr W's involvement in the concert ticket scam, and failed to note the arrangements for Officer B to interview Mr W before any decision on Diversion was made.

30. Critically, Officer C did not forward a copy of his report to Officer B. This was significant because, later that evening, having coincidentally reviewed the relevant files more fully, Officer B determined that neither Mr X nor Mr Y were eligible for Diversion for the iPhone scam, noting *"Too Serious Offending – Multi offences/Serious deception/ongoing enquiries into further offending/O/C file opposed/Strong public interest."* Officer B also became concerned about the extent of Mr W's involvement in both scams and sent an email to Officer C and the other Auckland City District Prosecutions Manager with his assessment of the information and a recommendation that a decision was not made about Mr W's Diversion until the full extent of his offending was determined and the victims' views were sought. Officer B left the files on Officer C's desk with the relevant sections marked.

31. Officer C did not provide an amended version of his report, or forward Officer B's email, to Officers D or E.

⁷ 'Turning of the Tide' is a crime prevention strategy, which was developed by iwi and Police (including Inspector Dennis) in 2012 to address the over-representation of Māori in the criminal justice system.

32. On 22 October 2014, Officer B recorded that Officer C was still considering the possibility of approving Diversion for Mr X. However, that same day, in spite of Officer B's decision regarding Mr X and Mr Y⁸, and Officer B's recommendation about Mr W, Officer C recorded on Mr W's prosecution file that Diversion was approved, at "DPM Level"⁹. Police records identify that Officer A contacted two of the three victims (who had deposited money for an iPhone into Mr W's bank account) and that this did not occur until 23 October 2014. The victims, who were both students, were amenable to Mr W receiving Diversion providing they received reparation¹⁰. While Officer C forwarded the two victims' views to Officer E on 30 October 2014, it is evident that Officer C had already progressed the matter on the basis that Mr W's Diversion application would be approved. The following day, Officer E advised Officers C and D that he had concluded that it was appropriate for Diversion to be considered¹¹. However, he stated that "*the diversion officer*" (in this case, Officer B) would be best placed to consider and make decisions about specific aspects of Diversion following the Diversion interview.
33. In any event, Officer A subsequently found further evidence regarding Mr W's role in the concert ticket scam. On 3 November 2014, she informed Officer C, and undertook to make some further enquiries, including obtaining a voluntary photograph from Mr W to prepare a photomontage for witnesses.
34. Officer C told the Police investigator in 2018 that he then contacted Inspector Dennis to advise that Diversion might not be available due to Mr W's involvement in the concert ticket scam, and that Police would need to interview Mr W again.
35. On 4 November 2014, Officer A contacted Mr W and asked him to provide a photograph, which he agreed to do, and a time was arranged for the following day. Shortly after this conversation, Inspector Dennis contacted Officer A. He did not identify himself as a member of Police but Officer A immediately recognised his name through her Police work.
36. Officer A's contemporaneous notes of her discussion with Inspector Dennis record that he said he had just spoken to Mr W about visiting the Police station for a voluntary photograph for identification purposes, and that Mr W had just admitted to him that Mr W was the "*handover*" person regarding the concert tickets. Officer A asked Inspector Dennis if Mr W would be prepared to come in to make "*an accurate and truthful*" statement. Inspector Dennis said that Mr W could do this at the same time he came in to have his photograph taken.
37. Officer A recorded the following exchange with Inspector Dennis:

HD: "I would like to keep this out of court if possible. [Mr W] has had a difficult year...and has just been accepted into a prestigious Maori school next year. I

⁸ Officer C told the Authority that he had no knowledge of Mr Y's involvement, and was unaware that Police had charged and were prosecuting him in relation to the concert ticket scam.

⁹ 'DPM' is the acronym for District Prosecutions Manager.

¹⁰ One of the victims' parents, a former Police officer, subsequently contacted Officer A to express his dissatisfaction with Police's decision to consider Diversion.

¹¹ It is noted that Officer E told the Police investigator in 2018 that he had no memory of having ever seen or reviewed the file.

understood he is getting Diversion for 1 matter. Would appreciate it if you can do this for other 2 re keep him out of court.”

Officer A: “I will treat [Mr W] impartially and will deal with him fairly and based on evidence not on who his father is.”

He reiterates that if I can keep [Mr W] as a witness and not in court process he would appreciate it – as he is just getting his life together.”

38. Inspector Dennis confirmed to the Authority that this sounded like a fair description of his conversation with Officer A. He told the Authority that his recollection of his initial contact with Officer A was:

“...I suppose the crux of the conversation was around where things were at potentially and where the investigation might be heading. I probably would've mentioned to her too that I would've liked this matter if we could get, get a restorative justice process if we could, just to keep me updated and you know if there's anything else I can do to help.”

39. Officer A was concerned enough by Inspector Dennis' approach to immediately inform her superiors (who made contemporaneous notes consistent with those recorded by Officer A), and the matter was escalated to the officers in charge of the Financial Crime Unit and the Criminal Investigation Branch. It was determined that any further calls from Inspector Dennis would be referred to them.

40. Officer A told the Authority that she later advised Officer C about Inspector Dennis' comments during the call, and that Officer C mentioned that he had also been contacted by Inspector Dennis. Officer C told the Authority that he did not recall Officer A expressing any concerns to him about her interaction with Inspector Dennis.

41. On 5 November 2014, Mr W was interviewed and subsequently charged in relation to the concert ticket scam. On 6 November 2014, Officer B declined Mr W's application for Diversion with respect to his role in both matters.

42. At Authority interview, Officer C provided a file note outlining his instructions for the Police prosecutor. The file note is undated and was not located or referred to in any Police file. The file note stated, “*You will have Inspector Huri DENNIS' son [Mr W] in your list*”, and outlined the circumstances of Mr W's offending. It noted that Officer C had now formed the view that Mr W was no longer eligible for Diversion, explaining:

“In addition to the policy reasons, [Mr X] applied for diversion on the same matters and was declined. As a matter of parity we are obliged to treat the parties similarly.”¹²

43. Officer C recorded that he had notified Inspector Dennis of the decision. Officer C asked that the Court be notified of Police's intention to join Mr W's and Mr X's matters, and concluded:

¹² Officer B declined Mr X's application for Diversion on 16 October 2014.

*"I anticipate that [Mr W] may want to avail himself of a discharge under s.106 of the Sentencing Act. As matters stand (that is without any additional charges) police may be able to take a neutral position on the charges."*¹³

44. On 12 November 2014, Mr W had his first Court appearance, where Police advised (as per Officer C's file note) that Mr W's Diversion had been declined upon review. They indicated their intention to apply at his next appearance for his matters to be dealt with alongside Mr X's (which had earlier been joined to Mr Y's case following Officer B's decision to decline both Diversion applications), in order to avoid duplicate hearings for the victims.
45. Inspector Dennis contacted Officer C later that morning seeking legal advice about what he should do in respect of Mr W's next Court appearance. Officer C told the Police investigator and the Authority that he advised Inspector Dennis that Mr W was potentially eligible for a discharge without conviction and fully explained what Mr W's lawyer would need to do. While Police records and information provided to the Authority by Inspector Dennis confirm that Mr W obtained the services of a lawyer around the time of his first Court appearance, Inspector Dennis told Officer C that Mr W was not represented by legal counsel. On that basis, Officer C suggested the 'Te Whānau Awhina' (TWA) programme¹⁴, which operated in the Waitakere District Court (but was based at Hoani Waititi Marae). Officer C said that he was aware that Inspector Dennis had some knowledge about the programme, but explained the panel process, which could result in Mr W receiving a discharge without conviction if completed successfully. Officer C told the Police investigator:

"He [Inspector Dennis] said that that sounded like a good idea and that he thought that that would be appropriate. I thought it would be appropriate, I mean I had spent time with [Inspector Dennis' parents], both of them fluent Māori speakers, both kind of steeped in Māoritanga. I knew what Huri's background was and so I knew what [Mr W's] background was and to me he was the ideal sort of person for that."

46. Officer C provided Inspector Dennis with contact details for Ms F, the Duty Lawyer Supervisor for the Public Defence Service at Waitakere District Court (who was a former colleague and personal friend of Officer C), to assist in facilitating the process. Officer C then contacted Ms F himself to discuss the matter. He told the Police investigator that the reason he did so:

"...was that Courts have got a lot of moving parts and quite often if you're not clear about where you're going you wind up with an unintended consequence, so I wanted [Mr W] to get to Te Whānau Awhina and to deal with his offending that way."

47. Officer C said that he advised Ms F to expect contact from Inspector Dennis and that:

¹³ Section 106 of the Sentencing Act 2002: 'Discharge without conviction' – *"If a person who is charged with an offence is found guilty or pleads guilty, the court may discharge the offender without conviction, unless by any enactment applicable to the offence the court is required to impose a minimum sentence."*

¹⁴ Te Whānau Awhina is a marae-based restorative justice programme.

“...she asked me what Category I thought [Mr W] would be in. I said, after some humming and herring, Category 1 but, when I said Category 1¹⁵, I meant that I thought he would be eligible for 106 not for diversion¹⁶. She said, ‘yep’, she would make sure it got through that part of the process and go off to Te Whānau Awhina...”

48. Inspector Dennis’ email records identify that Inspector Dennis then contacted Ms F, who followed up their discussion with an email later that day. In her email, Ms F (who was also informed by Inspector Dennis that Mr W did not already have a lawyer) provided some general advice about preparing for Mr W’s next appearance in Auckland District Court, and how the case might proceed, which included the option of transferring the matter to Waitakere District Court so that Mr W could be referred to the TWA programme. Ms F then provided a general outline of the TWA process. Ms F provided the names of TWA’s programme facilitator and coordinator, and offered to forward their contact details so that Inspector Dennis could contact them directly. She noted that she could assist with the transfer process in her role as the Court’s duty lawyer supervisor.
49. Ms F then asked Inspector Dennis, *“Is it likely the police would grant Police Diversion do you think? Or could that potentially be a conflict for them?”*
50. It is evident that Ms F copied Officer C into the email, or that Inspector Dennis subsequently forwarded it to him. Officer C’s response to Inspector Dennis was:

“Kia Ora bro

As you can see [Ms F] and I talked about your matter this afternoon

Awesome bro

Te whanau awhina will help toward a 106 and additionally may have some wisdom for [Mr W].”

51. On 13 November 2014, after his initial acknowledgement of Ms F’s email, Inspector Dennis advised her:

“With Te Whanau Awhina I will give this some more thought as I know the program very well and the people who run it, but I am also aware that it may also present some conflicts on my part, but will wait and see where we get in terms of legal aid and will talk this further with my wife...”

52. Neither Inspector Dennis nor Officer C responded to Ms F’s queries about Police’s stance on Mr W’s eligibility for Diversion. This was relevant as the TWA programme’s definition of Category 1 offenders relates to those who would fit the criteria for Police Diversion and could be offered this.

¹⁵ TWA’s definition of ‘Category 1’ is: *“This is suitable for offenders who fit the criteria for Police Diversion and would be offered this but prefer or it is determined more appropriate to refer to the Marae for the completion of their Diversion Agreement. If the offender completes the programmes successfully the outcome will be withdrawal of the charge.”*

¹⁶ This refers to a discharge without conviction under section 106 of the Sentencing Act 2002.

53. Officer C told the Authority that he had no further involvement in the matter. Officer C did not inform Officer A or her supervisor about his discussions and the arrangements that he had made with Inspector Dennis and Ms F.
54. Ms F later advised a member of Police's criminal investigation team:
- "I wrote instructions regarding the proposed resolution that the Police were agreeable. The agreement was a Category 1 which of the three categories is the most lenient. It meant that after [Mr W] had fulfilled the terms of his agreement on the marae, Police would withdraw the charges. I don't know what tasks [Mr W] was required to undertake."*
55. Contrary to what Inspector Dennis told Ms F about his connection with TWA, he advised the Police investigator, *"From this point on Te Whanau Awhina process took its course, via the coordinator. I do not recall his name."* Inspector Dennis said that he held *"no formal connection or influence"* at TWA and that, while he did not know the entry criteria, he knew:
- "...that with the support of the investigation team, [Mr W]'s situation was allowed to be heard and resolved at Te Whanau Awhina...Mitigating factors to this pathway were: [Mr W]'s early plea, [Mr W] not having previous convictions¹⁷, [Mr W] agreeing to support the Police case as a witness, [Mr W]'s repayment in full compensation to victims, [Mr W]'s letter of apology to victims, [Mr W] completing his Community Service Hours."*
56. On 20 November 2014, Auckland PPS staff transferred the file to Waitakere PPS. That same day, despite the fact that the matter had not yet been before the Court, Mr W, Inspector Dennis, and Inspector Dennis' wife attended a TWA preconference at Hoani Waititi Marae, where a 'Diversion Action Plan' was formulated.
57. On 26 November 2014, two of the victims (one each in respect of the iPhone and concert ticket scams), both Auckland-based, attended a TWA preconference, where they consented to the convening of a Restorative Justice Panel Conference in respect of Mr W's offending.
58. On 27 November 2014, Police records identify that Mr W intimated that he would plead guilty to the charges at a hearing at Waitakere District Court. Waitakere PPS notes record that Officer C authorised Mr W's transfer to TWA as a 'Category 1'.
59. Ms F's involvement in the matter ceased at this point.
60. On 29 November 2014, Officer C reviewed the Diversion decision in respect of Mr X (at the request of his lawyer), and supported Officer B's original decision to decline Diversion.
61. Police records identify that Officer A had continued to make enquiries, which included repeated attempts to follow-up with the concert promoters (who never supplied the details of the other ticket purchasers to Police), and to locate Mr Z (who had never been spoken to by Police). Indeed, she remained completely unaware of the transfer and outcome of Mr W's matters until

¹⁷ In fact, Mr W did have a previous conviction for an unrelated offence.

she was contacted by Waitakere PPS on 2 December 2014, requesting paperwork for Waitakere District Court in respect of the complainants.¹⁸

62. On 5 December 2014, Mr W and Inspector Dennis and his wife attended the Restorative Justice Panel Conference at the marae. TWA forwarded their report to Waitakere District Court on 22 January 2015. It is noted that details in the report identify that Mr W misled the TWA panel members about the length of time he had known his co-offenders and the extent to which he assisted Police with their enquiries.
63. On 29 January 2015, Mr W appeared in court having successfully completed the requirements of the TWA programme. The charges were withdrawn and it was noted that he had agreed to pay reparation to his victims.
64. Police records identify that Police fielded enquiries from at least one of the victims (not invited to the TWA preconference) seeking advice as to why the charges against Mr W had been withdrawn.
65. Police records identify that Inspector Dennis disputed the amount of reparation Mr W was required to pay, and that he escalated the matter when he was not satisfied with Officer A's explanation. A review of the relevant material identifies that Officer A's calculations were correct, and that Inspector Dennis did not appreciate that Police had no way of proving Mr W's assertion that he gave some of the money (deposited into his bank account by three of the victims or the proceeds from the sale of concert tickets), to Mr X. Inspector Dennis subsequently paid the full amount owed by Mr W.
66. When the Waitakere PPS prosecutor advised Officer C of the outcome of Mr W's matter, Officer C responded, "[Mr W] was quite lucky with this."
67. When asked by the Police investigator to clarify this statement, Officer C could not specifically recall but surmised:

"I was expecting 106 and still right up until the time I received those documents I was looking at it and going [inaudible] from charges dismissed and thinking they've just made a mistake with that. Because I still thought the outcome should have been a 106, it wasn't until I read through [the prosecutor's email] that I was oh it actually got withdrawn. I didn't realise that. Never chased it up. Yeah my expectation was that it would be a 106 rather than charges being withdrawn. I probably didn't pay that much attention because it was one of many emails I was clearing out in the morning."
68. On 2 February 2015, Mr X pleaded guilty to all but two charges (which Police then withdrew "for resolution"). Upon Mr X's guilty plea, Police withdrew the charge against Mr Y, the prosecutor having determined (in consultation with Officer A) that there was an issue with evidential sufficiency and with the desirability of calling co-offenders as witnesses. On 24 March 2015, Mr

¹⁸ Officer A had actually already provided these documents to Auckland District Court.

X was discharged without conviction and ordered to pay reparation to those victims who had deposited money into his bank account for the iPhones.

Issue 1: Did Inspector Dennis use his authority and position within Police to influence the outcome for Mr W?

69. Officer A told a member of the criminal investigation team in 2016 that, during the process, Inspector Dennis contacted her by phone or text about half a dozen times. She said that she felt this was “ridiculous”, particularly given she had had no contact from Mr W.

70. Officer A told the Authority:

“I just felt like he was trying to pressure me to stop his son getting prosecuted and I knew who he was because I'd worked with him at Auckland Central Police Station when I started as a constable so I knew who he was and his role in the police and it just felt completely inappropriate for me to be getting a call from him.”

71. Inspector Dennis told the Authority that he was acting on the basis of information given to him by Police and Mr W about Mr W's offending, and that he did not speak to any of the officers involved in any depth about the details of Mr W's offending. He said that concerns about the nature of his conversation with Officer A were never raised with him. He said:

“Well no one expressly said, ‘Huri, stay away from this, we don't like it’, or they could've gone to their DI [detective inspector], they could've gone to the District Commander, or anybody and said, ‘Look, can you just pull back on all of this stuff.’ I suppose my involvement in this, I think, was probably more about being practical. I could see they weren't after [Mr W], we knew who they were after and you know an outcome would've been to get the principals.”

72. In 2015, Ms F told a member of the criminal investigation team that she had acted in Mr W's best interests and that the outcome was positive, particularly given his repeat offending. However, she characterised the process as unusual because of Inspector Dennis' direct involvement and his close ties with Hoani Waititi Marae, and because, typically, a client's lawyer would apply for a transfer and negotiate restorative justice programme terms with Police. Ms F was of the view that, because of Inspector Dennis' involvement, Mr W had been given an opportunity that might not have been available to others, and that “the whole thing smacked of ‘A favour for the boys’.”

73. Ms F advised the Authority that she retained her email correspondence with Inspector Dennis (until his retirement in 2018), as the extent of his contact had made her feel uncomfortable. She further clarified:

“The fact it was a police officer's son and maybe he just had his nose in it too much, that's all, I just – you've not only got to be – make sure the process is fair, it's got to be seen to be fair and...Yeah, maybe he should've just backed off and let his son be the person that was driving this...Just maybe that he was sort of controlling it.”

...he [Inspector Dennis] just kept, you know, I've said he sent me lots of emails and it wasn't that the process of him [Mr W] getting diversion wasn't appropriate because I think he's entitled to a diversion as much as anyone else is, I suppose it's just the fact that maybe Huri Dennis should've just left it to its natural processes. I mean come along, bring your son, introduce yourself and just leave it at – you know, back off a little, that was all..."

74. When asked to clarify his comments about TWA presenting “some conflicts” for him (see paragraph 51), Inspector Dennis told the Authority:

“Well for sure and perceptions too because, you know, being the National Māori Strategic Advisor that would be something, a perception, but I had nothing to do with the setup of the programme. I know why it's there. But in terms of the actual mechanics of who runs it and on a day-to-day basis I don't know them.”

75. When pressed, Inspector Dennis confirmed that he did, in fact, know two staff members, and that one of them was a TWA restorative justice facilitator. Inspector Dennis told the Authority that this facilitator came into the conference but did not stay¹⁹. However, TWA records show that this facilitator attended both pre-conferences and the Restorative Justice Conference, and co-authored (with the programme coordinator) the conference report subsequently provided to the Waitakere District Court.

76. The Authority's subsequent review of Inspector Dennis' Police email records identified that he (and Officer C) also knew the coordinator of the TWA programme and had, in fact, received an update about the status of TWA's restorative justice programme (and a copy of TWA's referral form) from him in August 2014.

77. The Authority has been unable to confirm who made the referral to TWA²⁰. Inspector Dennis was unable to explain the anomalies in the process. He initially denied making any contact with the facilitator prior to the matter being referred to TWA through the Court. However, he then told the Authority that he could not recall if he had done so. Officer C and Ms F agreed that the sequence of events was unusual, and denied any involvement in that process.

78. The Authority considers it unlikely that the Court or Waitakere PPS initiated the TWA process, as the matter was not yet before them. The only other avenue for referral is upon the suggestion of the programme coordinator, which is a reasonable possibility given that the TWA process had been put in train prior to the required agreement of the Court. Having considered all of the evidence, the Authority considers it is reasonable to infer that Inspector Dennis contacted the programme coordinator directly.

79. Inspector Dennis told the Authority:

“...coming back to what you're saying in terms of my involvement, using my contacts and, and you know, potentially my influence on the rest of it, I believe I was holding a process that's available to anyone. Many members of the public can ask any prosecutor to say, 'is there an alternative pathway that I could use

¹⁹ Inspector Dennis later told the Authority that this facilitator “popped in throughout the hearing but he didn't stay”.

²⁰ Current TWA staff were unable to provide this information.

that has a focus on kaupapa Māori hohou i te rongo [to make peace]?’ And yeah, I can understand the concerns in terms of my position but leading my decision making was more about being the father.”

80. It is reasonable to expect that, as a father, Inspector Dennis would support Mr W in this situation. However, information reviewed and obtained by the Authority, identifies that his actions went beyond this. Specifically, Inspector Dennis’:
- failure to declare a conflict of interest;
 - direct approach to Officer C, a staff member he knew well and who would likely be the ultimate decision-maker regarding Police decision to prosecute Mr W;
 - contact with Officer A and, in particular, his repeated request for her to keep Mr W’s matter out of court;
 - failure to inform Officer C and Ms F that Mr W was, in fact, represented by legal counsel (who was the appropriate person to provide Mr W with legal advice, apply for the case to be transferred to Waitakere District Court, and negotiate the TWA process with Police);
 - failure to inform Ms F that Police had declined Mr W’s application for Diversion; and,
 - failure to declare a conflict of interest regarding his relationships with TWA staff and, in particular, his likely direct approach to the programme coordinator to initiate the TWA process prior to Court approval.
81. When taken together, it is evident that Inspector Dennis attempted, at every opportunity, to improperly influence the correct process.
82. Police ‘Managing conflicts of interest’ policy²¹ required Inspector Dennis to declare his personal interest in this matter and accept and abide by the likely decision that he should have had no further involvement. As a senior ranking Police officer, Inspector Dennis should have recognised that any involvement in the Police investigation and prosecution of Mr W’s offending conflicted with his position, obligations and responsibilities as a Police employee and was a clear breach of Police’s Code of Conduct. Indeed, Inspector Dennis was so focused on serving Mr W’s interests that he failed to recognise that a conflict existed, or that his actions were damaging Police’s reputation.
83. Inspector Dennis, Officer C, and the Police investigation (into the two officers’ actions) maintained that, in the end, Mr W received the outcome that he was entitled to, that he did not receive preferential treatment because his father was a senior ranking Police officer, and that he was ultimately penalised more harshly than his associates given the TWA process he was required to undertake.

²¹ See paragraphs 128-131 below.

84. However, this misses the point. Mr W should have been dealt with in the same manner as any other member of the public and his co-offenders. Inspector Dennis' intervention in his case was a major contributor to Mr W being singled out for different treatment from his co-offenders. That should not have occurred. If their cases had been joined and their offending considered together, it is entirely a matter for speculation how each of them might have been dealt with by the Court.

FINDINGS ON ISSUE 1

Inspector Dennis acted improperly by involving himself in the investigation and prosecution processes of a matter in which he had a clear conflict of interest.

Inspector Dennis used his authority and position within Police to influence the outcome for Mr W.

Issue 2: Did Officer C misuse his authority and position within Police to influence the outcome for Mr W?

85. Officer C involved himself in Mr W's prosecution at two critical stages – during Diversion deliberations, and acting as the conduit to initiate the TWA process, including the transfer of the file to Waitakere.

Diversion

86. In determining the appropriateness of Diversion, the seriousness of the offence and the views of the officer in charge and the victim/s must be considered. With dishonesty offences, such as these, consideration must also be given to the circumstances of the offence and, in particular, whether there has been a breach of trust. The Authority agrees with the ultimate Police decision that Mr W did not meet the criteria for Diversion.
87. It is typically the role of a Diversion officer to assess the offence and the offender to determine whether grounds exist to accept the offender into the Diversion Scheme. While there are occasions where a Diversion assessment or report might be completed by a District Prosecutions Manager for a member of Police who has been charged with an offence, no such requirement exists for family members of a Police officer or employee. Indeed, it is accepted that such individuals should be treated like any other member of the public.
88. It is the role of the District Prosecutions Manager to monitor Diversion, to ensure staff "*are consistently and transparently following the scheme's policies, procedures and operating standards*", and to make the final decision if a review of the Diversion decision is sought.
89. In this case Officer C as the District Prosecutions Manager chose to become involved in the early stages of the Diversion process by conducting an assessment, and reporting on it, himself. He initially approved Diversion for Mr W without a proper appreciation of the circumstances, without consultation with Officers A and B, and without a Diversion interview (which, according to Police policy must be conducted).

90. Officer C advised the Police investigator, “I sent the document [Diversion Assessment] through because obviously Huri was an Inspector at the time and I knew that that decision may come under scrutiny at some stage.” When asked by the Authority why he became involved, he said:

“...simply risk, simply risk. I mean it was a senior police officer’s son and it was likely that that was going to be looked at and scrutinised by other people and I wanted to make sure that all the boxes were ticked and if you have a look at the report, I think I’ve done it right, I think it’s accurate, and I did tick all the boxes that were required to be ticked, so it was just about the risk.”

91. Yet, despite his stated intent to ensure any risk was managed, Officer C failed to record any of his conversations with Inspector Dennis. Officer C told the Authority:

“Well, I was concerned about the risk in relation to diversion, the reason I was concerned about that specifically was because the final decision in relation to that diversion was mine, mine to make, and so I wanted to be clear about what had happened. Once it was no longer my decision, once it was going back to Court, it became more of a run-of-the-mill file for me, because I knew that ultimately whatever happened to that file was going to happen in Court and wasn’t going to be my decision. So I sort of reverted to a more kind of normal, this is going back to Court, here’s my note on it, deal with it.”

92. However, the decision was not Officer C’s to make. He continued to involve himself in the process despite Officer D’s decision to refer the matter to be reviewed outside the Region, and despite the fact that Mr X’s and Mr Y’s applications for Diversion had been declined. The Authority considers that it is a reasonable inference to make that Officer C did so because of his association with Inspector Dennis.

Te Whānau Awhina referral process and file transfer

93. Generally, the assigned Police prosecutor is responsible for reviewing a file and determining the appropriate category for the TWA programme. It is not unusual for a prosecutor to consult or seek guidance from a peer or the District Prosecutions Manager. In this instance, Officer C assumed responsibility for the file, and no prosecutor was involved in the matter until Officer C completed the file note, issuing instructions for the Auckland City prosecutor in preparation for the matter being transferred to Waitakere.

94. Officer C advised the Police investigator, “My intent all along was that at best there would be a 106” for Mr W, and that he believed (on the basis of his six years as a prosecutor at Waitakere, between about 2007 and 2013), albeit mistakenly, that TWA’s ‘Category 1’ was that, upon successfully completing the programme, a participant would receive a discharge without conviction²². Officer C told the Authority that he had always operated on the basis that Diversion was not available under the TWA programme, and suggested that the category definitions had perhaps changed during the intervening period. The Authority found no evidence to support Officer C’s latter assertion.

²² In fact, upon successful completion of the TWA programme, a matter suitable for a discharge without conviction is a ‘Category 2’.

95. Even if the Authority accepted that Officer C made a genuine mistake regarding the TWA categories, his actions are of particular concern given his role as a manager and supervisor. Given that Officer C had already identified a potential conflict of interest, he failed to disclose in any correspondence, or make a record of, his conversations with Inspector Dennis or Ms F, or consult with Auckland City or Waitakere PPS staff. Officer C should have made a record of his actions and decisions, and provided the rationale for his decision-making (for consistency, monitoring, evaluation and audit processes) regarding his role in the file transfer, referral to TWA, and 'Category 1' recommendation. While he told the Authority that he believed he advised Officer D (or the other Auckland City District Prosecutions Manager) that he had been in contact with Inspector Dennis, he could not actually recall doing so. Officer D had no emails or records of Officer C's involvement aside from the emails relating to his Diversion assessment report and Officer E's review of the file (see paragraphs 26 and 32).

96. When asked about his failure to inform other staff, particularly Officer A (who still had obligations to the victims), about the action that he had taken, Officer C told the Authority:

"Yeah, I fell down a little bit there. I should've let them know what I was doing, I didn't. I guess I was simply dealing with the file and getting it off my plate, but I should've, and it wasn't until I read [Officer A]'s job sheet saying, 'We weren't told about all of this', that I thought, 'Okay I've fallen down there, I should've contacted them and let them know.' I clearly didn't."

97. Officer C said that he did not consider that he was obliged to consult Officer A and her supervisor about his decision to initiate a process whereby the matter was referred to TWA. He said that it was his understanding that the investigation had been concluded and that investigation staff had no intention of charging Mr W with any other offences.

98. Officer C told the Authority that if Mr W had had a lawyer, he would have asked to deal with the lawyer rather than with Inspector Dennis. He also said that, had he been contacted by the parents of Mr W's co-accused, he would have given them advice about the best outcomes for their respective sons. He said, *"Yeah, I mean it's not often, it happens very rarely, but I do get calls from concerned parents and they just want to know what the best thing to do is."*

99. The Authority does not regard these statements as providing any plausible explanation or justification for Officer C's actions.

Conflict of interest

100. Information obtained during the course of Police's and the Authority's investigations identifies that Inspector Dennis and Officer C had known each other for many years, that Officer C had a close association with Inspector Dennis' parents, that the pair were working together on an 'Alternative Action' project for adult Māori offenders in 2013 and 2014, and that they corresponded with each other in an informal and familiar manner. While they did not socialise outside of work, Inspector Dennis told the Authority that he considered Officer C a friend.

101. The Authority is satisfied that Inspector Dennis contacted Officer C because of their pre-existing relationship, and that Officer C's initial and ongoing engagement with Inspector Dennis in respect of Mr W's offending was a potential conflict of interest that should have been declared.

102. The Authority finds that Officer C did have a personal interest (to support Inspector Dennis' interests) in this matter, and considers that Officer C failed to act fairly and impartially, or to adequately appreciate and manage his conflicted position, obligations and responsibility as a Police employee.

FINDINGS ON ISSUE 2

Officer C acted improperly by involving himself in the prosecution process beyond the scope of his duties and in a matter that gave rise to a conflict of interest.

ADDITIONAL CONCERNS ABOUT INSPECTOR DENNIS' CONDUCT

Issue 3: Did Inspector Dennis misuse his Police email account?

103. Police policy refers to responsible and limited personal use of technology while on duty.²³ A review of Inspector Dennis' Police email account between 2013 and 2015 identified numerous examples of excessive and inappropriate personal use.
104. Inspector Dennis' Police email account identifies he was sending job applications on behalf of Mr W, using his Police email address and cell phone as contact details for Mr W for prospective employers, and receiving and responding to emails sent to Mr W from Mr W's associates. While reference is made in the material to Mr W not having his own email account or cell phone, information gathered during the investigation into Mr W's offending, shows that this is not correct.
105. Inspector Dennis forwarded an email containing information about Police business to Mr W and his partner (instructing them to ignore the confidential Police information attached), sent non-work related attachments via email and conducted extensive business that was unrelated to Police or his role.
106. Records also identify that Inspector Dennis sought a formal reference in June 2014 from a school, where Mr W had been working part-time, to support Mr W's application for Diversion. Inspector Dennis used his Police email account to ask a staff member to put the information she provided on the school's letterhead and to forward it directly to Officer D. It is noted that Inspector Dennis sought an updated reference in September 2014 from the school principal, who was also a member of Mr W's partner's immediate family.
107. Inspector Dennis confirmed to the Authority that he used his Police email account for all professional and personal communications. He said that it was simply "*more convenient*" and that he did not have a personal email account (although his wife did). Inspector Dennis' email records identified that he frequently copied emails to a personal email address (a combination of both his and his wife's names), particularly those emails relating to his exchanges with Police and others about the criminal investigation and prosecution of Mr W.
108. Inspector Dennis told the Authority that he was aware that Police policy existed in relation to the use of Police email accounts for personal business but not the specific details of it. He described his actions in forwarding confidential Police information to those who should not be privy to it, as "*a bit clumsy*". He accepted that using his Police email address for personal communications could be perceived as an attempt to use his position within Police to influence others.
109. While the Authority cannot categorically determine the extent to which Inspector Dennis' personal use of his Police email account compromised his official duties, it is evident that, despite his awareness that he had obligations in terms of Police policy, he deliberately and

²³ See paragraphs 132-135

routinely used his work email for personal activities, and made no effort to use his Police email account responsibly or to keep his personal use to a minimum.

FINDING ON ISSUE 3

Inspector Dennis breached Police policy by excessively and inappropriately using his Police email account for personal business.

Issue 4: Did Inspector Dennis use his authority and position within Police to influence the sentencing outcome for a family member convicted of violence offences?

110. The Authority's review of Inspector Dennis' Police email account identified that, in January 2015, one of his cousins²⁴ sought a character reference from him to provide to the Court for sentencing, after the cousin had pleaded guilty to multiple assault charges. In his email, his cousin provided Inspector Dennis with extensive details about his family background, his actions since the incident, and the consequences of a conviction, to assist Inspector Dennis in drafting a support letter. His cousin advised that he had also approached another Police officer, who understood that he was not permitted to write a reference on Police letterhead but was happy to outline his support in writing as a member of the public. The relative stated in his email, "*So I'm not sure if you can have something on letterhead?*"

111. In February 2015, Inspector Dennis forwarded a draft character reference to his cousin. In the reference, Inspector Dennis describes himself as the man's uncle and as "*the spokesperson for a wider whānau support network.*" The reference begins:

"My name is Hurimoana Nui Dennis. I am the uncle of [Inspector Dennis' cousin] who is now before the Court. I am also a [sic] Inspector of Police and have served in the New Police [sic] for 29yrs. I have known [his cousin] and his wider whānau since childhood."

112. Inspector Dennis' draft used the details initially provided by his cousin, but also stated that his cousin had never previously been before the Court. In his response, Inspector Dennis' cousin suggested some grammatical amendments, advised that he did, in fact, have a historical conviction, and asked again if the reference could be recorded on Police letterhead. Inspector Dennis replied, "*All good make the changes and it can be referenced back to me. Keep me informed on how this goes and anything further that needs to be done.*"

113. Police advised the Authority that Inspector Dennis' relative received a discharge without conviction. While the relative might well have presented a strong case for the discharge, it is of significant concern if the Court was in any way influenced by the reference provided by Inspector Dennis.

114. Police policy relating to the issuing of character references is clear – staff are not permitted to do so without first obtaining written approval. Where written approval is given, a character reference can only be provided by a staff member as a private individual and "*you must not*

²⁴ Specifically, Inspector Dennis' cousin's son (also known as a 'cousin once removed').

include or infer any endorsement by Police or identify yourself as a Police employee.” Under no circumstances can Police letterhead or other Police identifiers be used to present the reference.

115. The policy also warns staff about *“avoiding situations that might compromise your integrity or lead to conflicts of interest.”*
116. When interviewed by the Authority, Inspector Dennis acknowledged that he was aware there was a policy about providing references but said he was not aware of his specific obligations regarding the policy. Inspector Dennis confirmed that he did not seek any authority to write the letter or discuss it with anyone.
117. When asked if he considered at the time whether there was any potential conflict of interest, Inspector Dennis stated:
- “I probably did but I probably disregarded it...Just feeling for my cousin I suppose, he made some mistakes and he was up on some fairly heavy charges and yeah wanted to help him, he’s a good man.”*
118. When asked specifically whether he knew that he had a conflict of interest and whether he was trying to use his influence as a Police officer in the content of the character reference, Inspector Dennis accepted that this was the case.
119. Inspector Dennis made no attempt to refer to policy or seek guidance on this matter. Instead, he intentionally provided a reference, contrary to Police policy, in respect of a matter in which he knew he had a conflict of interest, and he deliberately included reference to his role as a Police officer in an attempt to influence the outcome in his relative’s favour.

FINDINGS ON ISSUE 4

Inspector Dennis breached Police policy by providing a character reference for a family member.

Inspector Dennis used his authority and position within Police to influence the Court outcome for a family member.

Issue 5: Did Inspector Dennis use his authority and position within Police to attempt to influence an officer in relation to a traffic stop?

120. On 28 January 2017, a constable was on duty in an unmarked police vehicle carrying out speed checks on State Highway 1 near Pukerua Bay. This area of road has a posted speed limit of 50km/h.
121. Inspector Dennis was driving a four-wheel drive vehicle towing a trailer and was stopped by the constable as he was going over the speed limit. The constable did not know who the driver was and advised him that he had been caught on his radar gun travelling at 68km/h. Inspector Dennis asked whether the constable was going to give him an infringement notice. Upon being advised that he was, Inspector Dennis replied: *“you can use your discretion and give me a warning”*. The constable stated that he was not allowed to exercise discretion for speeding offences. Inspector Dennis then responded, *“I’m a Police Inspector and you can use your discretion”*.

122. The constable told Inspector Dennis that as a Police officer he should know that speeding is one of the 'Fatal Five' offences where no discretion is allowed. Inspector Dennis continued to try to influence the constable's decision-making by saying that there were mitigating circumstances as he was driving a big vehicle towing a trailer and going downhill. He again said the constable should use his discretion. The constable did issue an infringement notice in relation to the speeding matter and advised his line manager of the encounter.
123. Police notified the Authority of the incident. Police conducted an employment investigation into Inspector Dennis' actions and concluded that his behaviour amounted to misconduct. The Authority oversaw the investigation and agreed with the conclusion. This was a clear attempt by Inspector Dennis to use his authority as a more senior officer to influence a junior officer to his benefit. Inspector Dennis resigned from Police before a sanction was imposed in relation to this matter.

FINDING

Inspector Dennis attempted to use his authority and position within Police to influence an officer not to issue him an infringement notice for a speeding offence.

CONCLUSIONS

124. The Authority has found that:
- 1) Inspector Dennis acted improperly by involving himself in the investigation and prosecution processes of a matter in which he had a clear conflict of interest.
 - 2) Inspector Dennis used his authority and position within Police to improperly influence the outcome of a criminal prosecution of his son Mr W.
 - 3) Inspector Dennis breached Police policy by excessively and inappropriately using his Police email account for personal business.
 - 4) Inspector Dennis breached Police policy by providing a character reference for a family member.
 - 5) Inspector Dennis used his authority and position within Police to improperly influence the Court outcome for another family member.
 - 6) Inspector Dennis attempted to use his authority and position within Police to influence an officer not to issue him an infringement notice for a speeding offence.
125. It is evident that Inspector Dennis has repeatedly used his authority and position within Police to improperly pressure and influence Police staff and others, and has circumvented proper processes, to obtain more favourable outcomes for family members in the criminal justice system. He involved himself in a number of matters in which he had a clear conflict of interest and used his Police email account to serve his own interests.

126. When considered alongside the Authority's findings in relation to the alleged unlawful detention of a young person (which are outlined in a separate report), these findings demonstrate that, when he was an officer, Inspector Dennis repeatedly engaged in improper behaviour that evidences a disregard for the law and Police policy, process, and procedures. In the Authority's view, Inspector Dennis' actions, when considered together, amounted to serious misconduct.
127. In respect of Officer C, the Authority has found that he unnecessarily and repeatedly intervened in the case involving Inspector Dennis' son, beyond the scope of his duties, to influence the outcome for Mr W. In doing so, he failed to act with the independence and transparency that would be reasonably expected of a District Prosecutions Manager. Despite his reported intent, Officer C deliberately ignored his conflict of interest, which effectively increased the risk to Police's reputation. Consequently, Mr W was not treated impartially or like any other member of the public would have been under the same circumstances.



Judge Colin Doherty

Chair
Independent Police Conduct Authority

14 November 2019

IPCA: 17-2040

Managing conflicts of interest

128. The ‘Managing conflicts of interest’ chapter of the Police Manual explains that conflicts of interest can occur *“fairly frequently”* in a small country like New Zealand. The policy states that all actual, potential or perceived conflicts of interest must be declared and appropriately managed:

“All Police employees must be aware of these critical points:

- *A perceived or potential conflict of interest can be just as damaging as an actual conflict of interest.*
- *All actual, potential or perceived conflicts of interest must be declared to a supervisor by way of the appropriate declaration...”*

129. The policy defines the following terms:

“Actual conflict of interest	<i>A conflict between our official duties and our other interests that could interfere with our ability to be impartial, objective and independent.</i>
Perceived conflict of interest	<i>The perception of outside observers that our other interests may interfere with our ability to be impartial, objective and independent, whether or not that is the case. The perception of a conflict of interest can be just as damaging to reputation as an actual conflict.</i>
Potential conflict of interest	<i>A situation where our other interests have the potential to interfere with our official duties in the future, or where our official duties could affect our other interests in the future.”</i>

130. If an officer has *“an actual, perceived or potential conflict of interest”*, they must notify their supervisor as soon as possible and complete a form declaring the conflict. The policy also states:

“If possible, abstain from involvement in the decisions or actions that could be compromised by your other interests....

Discuss the conflict of interest and how it could be managed with your supervisor, and cooperate with the management plan.”

131. The policy states:

“It is important that conflicts of interest are recognised and properly managed. Conflicts of interest that are hidden, or poorly managed, create the risk of misconduct (or the appearance of misconduct), and could undermine public trust and confidence. Conversely, good management of conflicts of interest protects both the employee(s) involved and Police from allegations of bias or inappropriate conduct.”

Information management, privacy and assurance

132. The 'Information management, privacy and assurance' chapter of the Police Manual (applicable at the time) includes sections specifically related to both acceptable and inappropriate use of Police technology, such as email.
133. Police staff are allowed limited personal use of email while on duty, but such use is deemed "*not a right but a privilege*". Policy outlines the conditions that must be adhered to, including that personal use must be:
- reasonable in scope and duration
 - be kept to a minimum so that official duties are not compromised
 - in the employee's own time (except where it does not impede productivity or performance)
 - consistent with standards of behaviour expected of a Police employee.
134. While policy allows for an employee to use email to communicate with friends, it does not allow for them to conduct business unrelated to Police or their role. Policy specifically states that Police staff "**must not forward or copy email with information within the email history (email trail) that should not be provided to unauthorised person(s)**".
135. Policy provides guidance to employees on determining whether their usage is appropriate by using 'the SELF test'. It encourages employees to ask themselves whether their usage would:
- "
- *stand up to Scrutiny (e.g. from the media);*
 - *Ensure compliance (e.g. with policy);*
 - *be Lawful (laws, regulations and rules); and*
 - *be Fair (e.g. to community, colleagues, your family and others)."*
-

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.



Mana Whanonga Pirihimana Motuhake

PO Box 25221, Wellington 6140

Freephone 0800 503 728

www.ipca.govt.nz
