

*Independence*

*trustworthiness*

*accountability*

*vigilance*

*integrity*

Report on the Police investigations into  
offending by Malcolm Rewa

July 2014



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July 2014

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# Introduction

INDEPENDENT POLICE CONDUCT AUTHORITY

1. On 31 July 2013, New Zealand television broadcaster, TV3, aired a story on their programme, '*3<sup>rd</sup> Degree*', about Teina Pora, an adolescent convicted in 1994 of the sexual assault and murder of Susan Burdett in her home in 1992. Although Mr Pora was re-tried in 2000 (after Auckland serial rapist, Malcolm Rewa, was found guilty in 1999 for sexually assaulting Ms Burdett on the night she died), he was reconvicted. Two juries could not decide if Mr Rewa was guilty of Ms Burdett's murder.
2. The television programme alleged that there had been a miscarriage of justice because evidence in fact implicated Mr Rewa. They contend, as do Mr Pora's lawyers, that Police were aware that a serial rapist was active at the time of Mr Pora's first trial, and that the offender acted alone and had a distinctive modus operandi, which was apparent in the incident involving Ms Burdett. It is alleged that this information was withheld from the defence and, therefore, Mr Pora did not receive a fair trial.
3. On 7 August 2013, as a result of the programme, the Authority received a complaint from Ms Q, an individual personally affected by the Police handling of the series of sexual assaults committed by Mr Rewa. This was followed, on 12 August 2013, with a complaint from members of her family. These complaints were about the timeliness of the Police response to the series of sexual assaults committed in Auckland and the alleged failure by Police to apprehend Mr Rewa earlier. The Authority declined to investigate due to the historical nature of the matter, the subsequent changes in Police policy and procedure, and the fact that Mr Pora's lawyers were seeking leave from the Privy Council to appeal the convictions.
4. On 21 August 2013, '*3<sup>rd</sup> Degree*' aired a further story, expanding upon the previous story's "*revelations*", alleging that Police failed to act after the target of Mr Rewa's first attack, Ms A, identified and provided his name to Police shortly after he sexually assaulted her in 1987. While this information was presented at Mr Rewa's trial in 1998, and reported on by media at the time, the matter caused significant public consternation and debate after the programme was broadcast. It was evident that members of the public, including a number of those who were targeted by Mr Rewa, were aggrieved that Police's alleged

failure to act in the first instance may have resulted in the unnecessary victimisation of many other women.

5. The Authority reconsidered its decision and, on 23 August 2013, announced that it would conduct an independent investigation into the complaints received.
6. Following its decision, the Authority received a complaint from the solicitors representing Mr Pora about the Police handling of the series of sexual assaults, the identification of Mr Rewa as the offender, and the disclosure of relevant information to Mr Pora's defence counsel at his first trial. The Authority also received complaints from two individuals about the Police investigations into intruder attacks in their homes, the alleged failure by Police to apprehend Mr Rewa earlier, and Police contact with them subsequent to Mr Rewa's arrest.
7. This report sets out the scope of the Authority's investigation and its findings and recommendations.

#### Index of officers

Field Staff	Roles/Comments
Officer A	Detective Constable, Glen Innes CIB, Auckland City District [Ms A investigation]
Officer B	Detective Constable, Crime Squad, Auckland City District CIB [Ms A investigation]
Officer C	1989: Detective Sergeant, Otahuhu CIB, Otahuhu District [O/C Ms D and Ms E investigations]; 1995: Detective Senior Sergeant, Western Area Headquarters, Auckland City District [Police investigation into Mr Rewa's IPCA complaint]
Officer D	Detective Sergeant, Otahuhu CIB, Otahuhu District [O/C 'Otahuhu rapes'; Operation Harvey]
Officer E	Detective Inspector, Otahuhu CIB, Otahuhu District [O/C Burdett homicide inquiry; O/C Operation Harvey]
Officer F	Detective Senior Sergeant, Otahuhu CIB, Otahuhu District [2 I/C Burdett homicide inquiry]
Officer G	Detective Sergeant, Papakura CIB, Papakura District [Operation Park; Operation Atlas; Operation Harvey]
Officer H	Detective Senior Sergeant, Otahuhu CIB, Otahuhu District [2 I/C Operation Park; 2 I/C Operation Harvey]
Officer I	Detective Sergeant, Ponsonby CIU, Auckland City District [Ms P investigation]
Officer J	Constable, Ponsonby CIU, Auckland City District [Ms P investigation]
Officer K	Detective Constable, Ponsonby CIU, Auckland City District [Ms P investigation]

### Timeline of significant events

Date	Event/Comments
1974 and 1975	Mr Rewa's first convictions for sexual offending
31/12/1987	Sexual assault of Ms A in Glen Innes. First (known) sexual assault in the series.
1/1/1988	Ms A identifies Mr Rewa as her attacker.
27/6/1988	Police interview Mr Rewa but do not, subsequently, follow-up the alibi provided by him.
30/12/1988	Sexual assault of Ms B in Rotorua
23/4/1989	Sexual assault of Ms C in Mangere
27/4/1989	Sexual assault of Ms D in Otahuhu
16/3/1990	Sexual assault of Ms E in Otahuhu. Police recognise link with sexual assault of Ms D.
14/1/1991	Sexual assault of Ms F in Hillsborough
20/3/1991	Sexual assault of Ms G in Mangere
25/12/1991	Sexual assault of Ms H in Hillsborough
9/3/1992	Sexual assault of Ms I in Parnell
23 or 24/3/1992	Sexual assault and murder of Ms Burdett in Papatoetoe. Burdett homicide inquiry commences.
1/4/1992	Sexual assault of Ms J in Otahuhu. Police recognise link with sexual assaults on Ms D and Ms E. Shortly thereafter collectively referred to the ' <i>Otahuhu rapes</i> '.
Early April 1992	Officer D recognises possible link between Ms Burdett's and Ms J's matters. Not pursued as a line of inquiry at that time by officers in charge of Burdett homicide inquiry.
13/4/1992	Officer D requests ESR compare DNA profiles from Ms Burdett's and Ms J's crime scenes. Such a test is not possible at that time.
2/8/1992	Sexual assault of Ms K in Pt Chevalier.
9/8/1992	Sexual assault of Ms L in Levin.
13/8/1992	Sexual assault of Ms M in Pt Chevalier.
1/9/1992	Sexual assault of Ms N in Mangere.
15/3/1993	Operation Nightwatch commences (surveillance operation to identify offender for ' <i>Otahuhu rapes</i> ' runs until 11/4/1993).
18-23/3/1993	Teina Pora confesses to involvement in the murder of Ms Burdett. He is charged with her murder and sexual assault.
25/3/1993	Officer D requests ESR compare DNA profiles from Ms D's crime scene with Maori and Polynesian 'persons of interest' from Burdett homicide.
June 1993	Operation Park commences (large scale inquiry into separate series of sexual attacks in South Auckland by offender known as ' <i>South Auckland Serial Rapist</i> ')
28/9/1993	Files relating to ' <i>Otahuhu rapes</i> ' inactivated.
27/10/1993	Sexual assault of Ms O in Mt Eden.
15/6/1994	Following a two week trial, Teina Pora is found guilty of being party to Ms Burdett's murder and sexual assault.
5/1/1995	Aggravated assault and burglary of Ms P in Ponsonby.
13/1/1995	Ms P identifies Mr Rewa as the offender for the 5/1/1995 incident.
17/1/1995	ESR determine that the sexual assault of Ms H is unrelated to Operation Park. This finding leads to further testing.
26/5/1995	Mr Rewa spoken to by Officer I regarding the aggravated assault and burglary of Ms P

	but not subsequently arrested.
April/May 1995	ESR established a DNA link between the sexual assault of Ms H and those of Ms Burdett and Ms D.
1/6/1995	Operation Harvey commences to identify and locate further suspects nominated by Teina Pora. Operation concludes 18/6/1995 when all suspects ruled out.
17/6/1995	Sexual assault of Ms Q in Takapuna.
June 1995	ESR confirms a DNA link between the sexual assault of Ms B in Rotorua and that of Ms Burdett, Ms D, and Ms H.
June 1995	Operation Park concludes when Joseph Thompson is apprehended after his DNA is matched to that of the 'South Auckland Serial Rapist'.
4/9/1995	Operation Harvey re-launched to identify the offender and to determine if other cases can be linked to the series by criminal profiling.
7/7/1995	IPCA receives a complaint from Mr Rewa alleging Police harassment following their attempts to arrange for him to participate in an identification parade in respect of the offences committed against Ms P.
10/11/1995	Sexual assault of Mr R in Sandringham.
3/12/1995	Sexual assault of Ms S in One Tree Hill.
11/12/1995	Sexual assault of Ms T in Remuera.
22/12/1995	Sexual assault of Ms U in Mt Eden.
December 1995	Operation Atlas commences into a series of sexual assaults committed in several Auckland City suburbs.
13/1/1996	Sexual assault of Ms V in Ponsonby.
February 1996	Officer G links numerous unsolved Auckland City District sexual assault files by criminal profiling.
23/3/1996	Sexual assault of Ms W in Mt Eden.
March 1996	Officer G reviews Operation Harvey files and concludes offender is also responsible for Operation Atlas attacks.
3/4/1996	Officer D sees Ms A's file and recognises similarities with Operation Harvey matters. Officer D notes that Ms A had nominated Mr Rewa as the offender, and that he fitted the criminal profile.
18/4/1996	ESR determines that blood samples from members of Mr Rewa's family indicate a strong link with the DNA profile of the Operation Harvey offender.
April 1996	ESR determines that DNA from scene of Ms W's attack is a match to the Operation Harvey offender, thus linking Operation Harvey and Operation Atlas.
12/5/1996	Sexual assault of Ms X in Epsom. Mr Rewa is linked to the vehicle observed fleeing the scene.
13/5/1996	Mr Rewa is apprehended at the home of his partner.
30/5/1998	Mr Rewa is convicted for the sexual assault of 25 women.
3/7/1998	Mr Rewa is sentenced to preventative detention with a minimum parole period of 22 years.
20/1/1999	Mr Rewa is convicted of the sexual assault of Ms Burdett and subsequently sentenced to a further 14 years to be served concurrently. Two juries cannot decide if he is guilty of Ms Burdett's murder.





# Background

INDEPENDENT POLICE CONDUCT AUTHORITY

8. On 30 May 1998, Auckland serial rapist, Malcolm Rewa, was convicted on multiple charges relating to the sexual assault of 25 women dating back to 1987. On 3 July 1998, he was sentenced to preventive detention with a minimum parole period of 22 years. On 20 January 1999, Mr Rewa was also convicted for the sexual assault of Susan Burdett (who had been found raped and murdered in her home in March 1992) and sentenced to a further 14 years to be served concurrently.
9. While Mr Rewa was convicted for eight of the attacks on the basis of DNA evidence, the vast majority of his remaining convictions were the result of compelling evidence relating to the methods used by Mr Rewa to commit those crimes and the distinctive behavioural characteristics demonstrated by him when doing so. These methods and characteristics are commonly, and respectively, referred to as an offender's '*Modus Operandi*' (MO) and '*criminal signature*'.
10. The offences for which Mr Rewa was convicted included sexual violation by rape and unlawful sexual connection, attempted rape, and assault with intent to commit sexual violation. The Authority has referred to these offences, generically, throughout this report by using the term, '*sexual assault*'.
11. This report also makes significant reference to the Institute of Environmental Science and Research Ltd (ESR). Part of the Department of Scientific and Industrial Research (DSIR) until 1992, ESR<sup>1</sup> is the government owned organisation responsible for, among other things, providing scientific and research services for the justice system. The ESR is the main provider of forensic services to Police, including the detection, collection, preservation, and analysis of forensic evidence from crime scenes.
12. The following provides a summary of the Police handling of the offences committed by Mr Rewa between 1987 and 1996.

<sup>1</sup> Known as the Institute of Environmental Health and Forensic Sciences (IEHFS) from 1 July 1992 until 1993, when its name was changed to the Institute of Environmental Science and Research (ESR).

THE INVESTIGATION OF THE SEXUAL ASSAULT OF MS A

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13. In the early hours of 31 December 1987, Police were called to a residence in Glen Innes (a suburb in the Auckland City Police District) after Ms A was sexually assaulted by an intruder. Following the incident, arrangements were made for Ms A to stay with her partner's friends. On the morning of 1 January 1988, Ms A recognised a visitor to their home, an individual known by his nickname 'Hammer' [also referred to in Police files as 'Hama'], as the man who had attacked her. Police were contacted by Ms A immediately following his departure from the address, and again a few days later, when she established that his real name was Malcolm Rewa. Ms A was never re-interviewed or asked to give a further statement on the matter until Mr Rewa's arrest in 1996.
14. Mr Rewa was spoken to by Officer A on 27 June 1988. The Authority has been unable to establish the reason for the Police's delay in responding to the information provided by Ms A. Mr Rewa informed Officer A that on the night Ms A was sexually assaulted, he was in fact with Ms A's partner and another associate. The officer's brief jobsheet of the discussion concludes, "*REWA is basically alibid [sic], by saying he was with [Ms A's partner] during the time of the rape. [Ms A's partner] at present, is in Australia, and he won't speak to Police anyway (very anti).*" The identity of the other individual referred to by Mr Rewa does not appear to have been recorded.
15. DSIR received Ms A's Medical Examination Kit (MEK) from Police for forensic examination on 7 January 1988. At that time, it was the practice of DSIR to analyse crime scene samples only in instances where a sample from a nominated suspect had been provided for comparison. The officer in charge of exhibits for the scene, Officer B, was subsequently advised by DSIR that the samples would be destroyed if no interest was shown in them and, on 9 March 1988, he was informed, "*As no suspect has been located the examination of this case will not proceed.*" An undated DSIR file note states that following a discussion with Police, items were not examined and no samples were kept. Although, there is no record of the content of the discussion or the identity of the officer or officers involved, Officer B signed a pro-forma letter on 8 December 1988 consenting to the destruction of the samples. The DSIR log book for the period in question, records that they were destroyed on 15 December 1988.
16. There is no material on the Police file to evidence any further investigation into the matter, any supervisor involvement or sign-off, or any communication with Ms A. In a statement taken following Mr Rewa's apprehension, Ms A advised, "*I got little follow-up pieces from the Police over a period of time*", including that Police had spoken to Mr Rewa and "*he'd said it wasn't him.*" It is understood that Ms A also contacted Police in 1995, following the apprehension of South Auckland serial rapist, Joseph Thompson, and was informed that no DNA analysis had been undertaken as the samples from the scene of her attack had been destroyed.

17. In 1998, at the time of Mr Rewa's trial, Officer E told Ms A that Police did all that they could at the time of the incident. He was also reported publically as saying that Police made the correct decision not to proceed in 1988 because there was insufficient evidence, primarily due to the failure of Ms A's associates to cooperate and the fact that Mr Rewa was provided with a false alibi.

#### THE INVESTIGATION OF SEXUAL ASSAULTS IN OTAHUHU DISTRICT

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18. In the late 1980's, Counties Manukau (or South Auckland), encompassed two separate policing districts – Otahuhu and Papakura. Between 1989 and 1992, after the assault on Ms A, Mr Rewa committed seven sexual assaults on women in Mangere, Papatoetoe, and Otahuhu, all suburbs within the Otahuhu District. The first of these occurred on 23 April 1989, when Ms C was sexually assaulted in her home in Mangere. Although a similar attack occurred in the suburb of Otahuhu three days later, no connection was made.
19. As outlined below, Police subsequently identified a link between other assaults committed in the suburb of Otahuhu, but further incidents in Mangere and Papatoetoe were treated as individual, isolated, occurrences. However, all would invariably be linked some years later by the distinctive approach and behaviour exhibited by the offender. This included his method of, and upon, entry; use of bindings and bedding; language used; and issues with erectile dysfunction.

#### Investigation of the sexual assaults of Ms D and Ms E

20. On 27 April 1989, Ms D was sexually assaulted by an intruder in her home in Otahuhu. Almost a year later, on 16 March 1990, Ms E, who lived next door to Ms D, was sexually assaulted by an intruder in her home. Ms E was assisted by Ms D immediately following the incident. Given the proximity and similarity of the offences Police recognised the likelihood that the offender was responsible for both matters.
21. Items from each of the scenes were examined by DSIR staff at the time of the respective incidents, and relevant samples were retained. There is no information to indicate that DSIR were made aware of the possible connection between the two incidents.
22. On 21 March 1990, the officer in charge of the investigation, Officer C, asked the then coordinator of New Zealand Police's Psychological Services, for his assessment of the incidents. In his report, dated 20 April 1990, the coordinator supported the view that there was a likely connection and concluded, *"given the present pattern of offending, and the increased assertiveness in the latter incident, there are very good reasons to believe this offender (if he is the same man) will continue to offend in a similar manner. Such offences may not be restricted to these two dwelling houses in the future if he feels comfortable in his prowess at this type of offence."*

23. There is no information on Police files to indicate that the findings of the coordinator's report were disseminated among Police staff, nor that any further consideration was given to the possibility that a serial sex offender was active.

#### Investigation of the sexual assault of Ms J

24. On 1 April 1992, Ms J was sexually assaulted by an intruder in her home in Otahuhu. The earlier attacks on Ms D and Ms E were common knowledge among the local Criminal Investigation Branch (CIB) staff and, given the proximity of the offences, the consistent description of the offender, and the similarities in the MO, a link was made with the sexual assault on Ms J.
25. Exhibits from the scene were delivered to DSIR on the day of the incident and ESR forensic scientist, Scientist A, was informed of the possible link between the three incidents, along with the sexual assault of another woman in Otahuhu on 3 March 1991. Samples from the scenes of these incidents were retrieved from storage so that a DNA analysis could be conducted on all four matters. These were subsequently referred to collectively by DSIR and Police as the '*Otahuhu Rapes*'.
26. DNA was extracted by Scientist A from samples from the various scenes and, on 22 April 1992, the samples were given to Scientist B for DNA profiling. Records identify that DSIR were specifically asked by the officer in charge of the investigation, Officer D, to determine whether semen found on items from these cases could have come from the same or multiple sources. Using a method, described as '*batching*', the DNA from all four crime scenes was processed together in the same batch at the same time, which ensured a comparison could be made. At that time, DSIR were also provided with blood samples from three suspects [none of whom was Mr Rewa] as they were able to exclude individuals by comparing suspect samples with crime scene profiles using a relatively simple testing procedure.
27. At that time, the DNA profile obtained from samples in respect of Ms E was consistent with her DNA only; no profile from any other source could be found. The results for the remaining three matters identified that semen had come from four different sources (none of which was from the nominated suspects). The sample from Ms D produced a DNA profile that would subsequently be found to be that of Mr Rewa. The samples in respect of Ms J came from both her husband and another source. The latter yielded insufficient DNA material for comparison with the source of the DNA profile obtained from the samples in respect of Ms D. The samples from the March 1991 sexual assault, which it would subsequently be determined that Mr Rewa had not committed, produced a profile of a different individual.

### Ongoing investigation of the 'Otahuhu rapes'

28. Police were convinced that the offender was local and/or focusing on the suburb of Otahuhu and, while the crimes were publicised within the district, no enquiries were made to establish whether similar offences had been committed in neighbouring suburbs. Had they done so, Police may have discovered the attacks on Ms C in 1989 [see paragraph 18], and on Ms G, who had since been sexually assaulted in similar circumstances, in Mangere on 20 March 1991.
29. After a witness reported several sightings of a suspect, Police ran a brief surveillance operation in Otahuhu without success. An article published in the local newspaper in May 1992, outlining the four incidents and displaying an identikit picture of the offender, produced no leads. On 1 September 1992, an offender with the same MO sexually assaulted Ms N in her home in Mangere. Although Officer D responded to this incident with his staff, no link was made with the 'Otahuhu rapes'.
30. There is no information on the Police files to indicate what further enquiries were made by Police to identify the offender for the 'Otahuhu rapes' until 'Operation Nightwatch', another surveillance operation, was commenced by Officer D on 15 March 1993. The operation was based on the premise that the four sexual assaults had occurred in the suburb of Otahuhu approximately one year apart. It ran until 11 April 1993 but raised no suspects.
31. On 25 March 1993, Officer D asked Scientist B to compare the DNA profile obtained from the scene of Ms D's attack (as the one that elicited the most DNA) with those obtained from individuals of Maori or Polynesian descent (in line with the description of the offender) who gave blood samples as part of the investigation into the homicide of Susan Burdett [outlined at paragraph 34]. With no other positive lines of enquiry available, Officer D's request was a final effort to use the existing pool of '*persons of interest*' for the Burdett homicide as a resource to identify a suspect for the Otahuhu matters.
32. The files relating to the Otahuhu sexual assaults were inactivated on 28 September 1993. While Officer D's report, of the same date, stated that the comparison work was continuing and that Police would be notified in due course, Scientist B was on leave from ESR (as it now was) between August 1993 and April 1994.

### Operation Park

33. In June 1993, Police launched a large scale Police inquiry, named '*Operation Park*'. This was an investigation into a separate series of sexual attacks in South Auckland by an offender with a different MO, who became known as the '*South Auckland Serial Rapist*'. This inquiry has not been the subject of investigation or review by the Authority and, therefore, the parameters of the Police operation are unclear. While the period and specific locales of the offending and, indeed, how the serial nature of the offending was

recognised, are unknown, it is evident that the 'Otahuhu rapes' were never considered as being part of this series.

#### Recognising a possible link between the 'Otahuhu rapes' and the Burdett homicide

34. Ms Burdett was sexually assaulted and murdered in her home in Papatoetoe on 23 or 24 March 1992, just over a week prior to the attack on Ms J. The Police investigation into this incident was referred to as the 'Burdett homicide inquiry'.
35. Following Officer D's assignment as officer in charge of Ms J's matter on 1 April 1992, and at some point before 13 April 1992, he saw photographs of the Burdett crime scene. Officer D recognised similarities in the way in which Ms Burdett's and Ms J's bodies and bedding were positioned and mentioned this to the officers in charge of the Burdett homicide inquiry, Officer E and Officer F. However, they were focused on the homicide, which they believed had been committed by a resident of Papatoetoe, and the possibility that the offender might in fact be a serial sex offender was dismissed. It is understood that none of the other detectives on the homicide inquiry team [at least six of whom had also been involved in one or more of the intruder sexual assaults committed in Mangere and Otahuhu] were present at the time this was discussed.
36. Without evidence to back up his suspicion, and in acquiescence to the experience and proven investigative skills of the two senior officers, Officer D did not debate the matter further. However, in a file note recorded by Scientist A on 13 April 1992, she records a conversation with Officer D in which she appears to have been asked by him to check the DNA profile from Ms J's scene with that from the Burdett homicide. Officer E and Officer F were not aware that this request had been made.
37. Scientist A left ESR shortly after and no other ESR staff were aware of this request until their files were reviewed in 2010. At the time of Officer D's exchange with Scientist A, Scientist B had yet to generate the DNA profile from the Burdett crime scene, so that no comparison was possible. Testing methods used by ESR, and universally, at that time made comparison between different sets (batches) of experiments very difficult, and it was not until some years later that ESR worked out a method to attempt to do so. In theory, ESR could have started the process from the beginning by putting all five DNA samples in the same batch. However, in practice, it was unlikely that there would have been sufficient DNA material left from the 'Otahuhu rapes' to do so, using the testing methods available at that time. Further, no attempt would have been made by ESR to proceed in this manner without a formal request from Police.
38. In his brief of evidence, prepared for Mr Rewa's trial in 1998, Officer D stated that prior to inactivating Ms J's matter in September 1993, he asked Scientist B to "*check the DNA found at [Ms D's] Rape against the DNA found at the BURDETT Homicide.*" There is no evidence on the Police file to indicate such a request was made, nor does Scientist B have

any recollection or record of this. Significantly, as outlined in paragraph 37, ESR were unable to undertake this method of testing at that time. Officer D may, in fact, have confused the request referred to in his brief of evidence with his correspondence to Scientist B of 25 March 1993, in which he asked her to compare the DNA profile from Ms D's scene with a particular group of suspects who gave blood during the Burdett homicide investigation [see paragraph 31]. Officer D referred to this correspondence when he inactivated the 'Otahuhu rape' files in September 1993 [see paragraph 32].

#### THE INVESTIGATION OF SEXUAL ASSAULTS IN AUCKLAND CITY DISTRICT

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39. In the early to mid-1990's, the Auckland City Police District was split into three separate areas. Western Area encompassed Avondale, Balmoral, and Ponsonby Police Stations. Eastern Area encompassed Glen Innes, Onehunga, Newmarket and Mt Wellington Police Stations. Auckland Central Area encompassed Auckland Central Police Station. Following his attack on Ms A in Glen Innes in 1987, Malcolm Rewa committed no further (known) sexual offences in Auckland City until 1991, when he attacked Ms F on 14 January 1991 and Ms H on 25 December 1991, in the suburb of Hillsborough. Police would go on to investigate a number of other sexual assaults committed by Mr Rewa in the Auckland City District suburbs of Parnell, Pt Chevalier, Mt Eden, Sandringham, One Tree Hill, and Remuera.
40. Once again, most of the crimes were distinguishable by the approach and behaviour exhibited by the offender. However, an unfortunate feature of the attacks in this district was that, due to the Police boundaries, several of the incidents committed in the same or neighbouring suburbs were actually investigated by staff from two different Police stations. Consequently, they were initially treated as individual, isolated, incidents. Police did not recognise that a serial sex offender was operating within the district until December 1995 [see 'Operation Atlas' from paragraph 54].

#### LINKING THE OTAHUHU DISTRICT AND AUCKLAND CITY DISTRICT SEXUAL ASSAULTS

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##### Establishing a DNA link

41. ESR continued testing the DNA from the 'Otahuhu Rapes' in 1992, 1993 and 1994 in an attempt to develop stronger profiles. Testing was also being undertaken on the DNA profile from the Burdett homicide over this period. Even after Teina Pora confessed to being involved in Ms Burdett's murder in March 1993, ESR continued testing (and analysing samples obtained from persons of interest), as no DNA evidence had ever been found linking him, or the two associates he nominated as accomplices, to the scene of the murder.

42. On several occasions, DNA profiles from the Burdett homicide and the four 'Otago rapes', along with an assortment of others, were processed together in the same batch. The Authority has found no ESR or Police documentation to indicate that any of the tests were undertaken for the purposes of comparison between cases.
43. Following her return from leave in April 1994, Scientist B spent 18 months validating the use of a new sensitive testing method (which Police were briefed about in a meeting on 22 July 1994), requiring only a minuscule sample to produce more discriminating results, and allowing cases with previously insufficient DNA material to be re-profiled and more easily processed for the purpose of comparison. This method would, eventually, be developed so, that in late 1995, ESR were able to produce a discrete defined DNA profile with attached values, which could be compared across time and sample types.
44. In late 1994, Police working on Operation Park asked ESR to determine if the attacks on Ms G in Mangere [as outlined in paragraph 28] and on Ms H in Hillsborough [as outlined in paragraph 39] were linked to their inquiry. On 21 December 1994, ESR informed Police that Ms G's matter was not connected to Operation Park. On 17 January 1995, Scientist C, who was assisting Police on Operation Park after having established the DNA link between those attacks, concluded that DNA samples from Ms H's matter could not have come from the person responsible for the Operation Park sexual assaults.
45. The finding with regard to Ms H in January 1995 appears to have been the catalyst for further work by ESR, which subsequently established a link between the attacks on Ms Burdett, Ms D, and Ms H. ESR records indicate that Officer E and Officer D were advised by Scientist B via telephone on 3 April 1995 that ESR were completing a report in respect of their analysis on the three cases. This was followed by a draft letter, dated 7 April 1995, and final correspondence, dated 8 May 1995, stating that ESR had been "*unable to distinguish between the three semen deposits by DNA profiling*" in respect of the attacks on Ms Burdett, Ms D and Ms H. In other words, all three offences appeared to have been committed by the same individual.

#### Operation Harvey

46. On 30 May 1995, Officer D nominated a number of other unsolved files for ESR to compare with the DNA profile relating to the sexual assaults on Ms Burdett, Ms D and Ms H. These included sexual assaults on Ms F and Ms N [see paragraphs 39 and 29, respectively], Ms K (in Pt Chevalier on 2 August 1992), and Ms M (in Pt Chevalier on 13 August 1992).
47. Also in May 1995, and in response to the linking of the three cases, Teina Pora was re-interviewed by Police. Mr Pora disclosed the names of a further five individuals allegedly involved in the sexual assault and homicide of Ms Burdett. As a result, on 1 June 1995, Officer E commenced Operation Harvey, which saw a team of detectives from both



districts tasked with identifying and locating the individuals nominated by Mr Pora. The Operation concluded on 18 June 1995, when all were ruled out, and the enquiry team was stood down the following day when Mr Pora admitted that he had lied.

48. In June 1995, Officer D asked Scientist B to seek a file from Wellington ESR relating to the sexual assault of Ms B in her home in Rotorua on 30 December 1988. Officer D was unable to recall the catalyst for this request, although he reasoned that he may have recognised that elements of the offence were similar to the other incidents following a nationwide search of sexual assault files on the Police computer. In any event, Scientist B subsequently determined that the DNA profile from Ms B's scene was a match to the offender who attacked Ms Burdett, Ms D, and Ms H.
49. Operation Park had come to a head in June 1995, when confirmation was received from ESR that a saliva sample provided by Joseph Thompson matched that of the '*South Auckland Serial Rapist*'. On 17 July 1995, Mr Thompson pleaded guilty to 46 sexual assaults on women and girls dating back to 1983.
50. On 18 July 1995, as a result of the finding that the Rotorua case was connected to the Auckland cases, Police requested that ESR review, by DNA analysis, all sexual assault files nationwide where samples were still available for comparison with the profile from the above four matters. Although Scientist B was continuing to develop a more efficient and sensitive DNA profiling technique, Police were informed in August 1995 that this required significant human resource and would be unlikely to be completed prior to December 1995.
51. On 4 September 1995, Operation Harvey was re-launched in earnest to identify the offender and establish if there were other cases that could be linked to the series (which Police accepted could well have ceased following the attack on Ms J in 1992) by criminal profiling. Officer D had already made arrangements with the officers in charge of Operation Park to analyse and re-check all their unsolved complaint files for suspects and fingerprints, and to prepare an offender profile.
52. On 5 October 1995, having examined the unsolved Operation Park files, Police requested that ESR undertake comparison work on files that had been identified as fitting Operation Harvey's offender profile. This included several of the files that Officer D had nominated in May 1995. Also on that day, Police specifically requested that ESR compare the DNA profile from the attack on Ms G [which had been ruled out of Operation Park as outlined in paragraph 44] with the Operation Harvey DNA profile, and to re-examine the DNA profiles from the attacks on Ms E and Ms J using the new technique in an effort to confirm a link.
53. Apart from this specific work, Operation Harvey launched a much more comprehensive programme of work to identify possible suspects. Phase One of Operation Harvey – the

analysis of Police charges against individuals in the Auckland and Rotorua regions from 1976 to 1995 - was completed in December 1995. This produced a pool of over 146,000 individuals, which was reduced to 5,000 '*persons of interest*' using criminal profiling methods. Phase Two commenced in January 1996, with Police staff in Rotorua and Auckland locating suspects and taking buccal swabs, which reduced the pool from 5,000 to just over 3,000 individuals.

### Operation Atlas

54. In late 1995, another Police investigation, known as Operation Atlas, commenced into an apparent series of sexual assaults in the suburbs in and around Auckland Central, Ponsonby, Balmoral, and Newmarket. In February 1996, Officer G, who was involved in the analysis and linking of files for Operation Park, was seconded to Operation Atlas and tasked with analysing the unsolved Auckland City District files in an effort to link them using criminal profiling. Several matters were subsequently linked, and included sexual assaults on Ms R (in Sandringham on 10 November 1995), Ms S (in One Tree Hill on 3 December 1995), Ms T (in Remuera on 11 December 1995), Ms U (in Mt Eden on 22 December 1995), Ms V (in Ponsonby on 13 January 1996), and Ms W (in Mt Eden on 23 March 1996). At that time, ESR testing had revealed no offender DNA at any of the scenes.
55. In March 1996, Officer G sought and was granted permission from the officers in charge of Operation Harvey [at that time, Officer E and Officer H] to analyse their files, and he concluded that the Operation Atlas and Operation Harvey offenders were one and the same. In addition to those already being examined by ESR for a link, Officer G also identified the sexual assault of Ms O (in Mt Eden on 27 October 1993) as part of the series. However, without the ability to link any of the matters with DNA, the operations remained separate.
56. In April 1996, further testing by ESR revealed a small semen stain on an exhibit from the scene of the attack on Ms W. This provided a DNA link to the Operation Harvey files and confirmed that Police were searching for one serial sex offender. At this time, for all intents and purposes, Operation Atlas merged with Operation Harvey.

### IDENTIFICATION OF MALCOLM REWA FOR OTHER OFFENDING

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57. Over the years, Malcolm Rewa had come to the attention of Police for a variety of offending. He was convicted of several offences committed during the period in which the serial sexual assaults were taking place, and was also, in fact, wanted by Police for interview in connection with a number of other matters. Much of this information was not collated by Police until after Mr Rewa was apprehended.

### Investigations into loitering and burglary offences

58. In July 1991, Mr Rewa had been seen, by a woman, acting suspiciously outside of her home in Ponsonby. He was spoken to by Police in his vehicle (a white Ford Laser) a short distance from the scene, and was subsequently arrested. Police opposed bail due to Mr Rewa's criminal history, his failure to provide a valid residential address, and the fact that he was wanted for interview in respect of two other matters (which included the suspected attempted abduction of a child, while driving the same vehicle, in Mangere earlier that month). Mr Rewa was convicted in October 1991 for the offence of *'Lurk/Loiter/Peep/Peer Near Dwelling'*.
59. On 24 December 1991 (only hours before the sexual assault of Ms H), a property in Papatoetoe was burgled by an offender, who was seen by a witness leaving the address carrying property. The witness recorded the details of the vehicle (again, the Ford Laser), which was later linked by Police to Mr Rewa. A search warrant was obtained by Police but never executed. Mr Rewa was stopped by Police while driving the vehicle in August 1992, but subsequent to this information being forwarded to the investigating officer it was found that Mr Rewa had given a false address. After Mr Rewa's arrest in 1996 it was established that, during the period in which this officer was attempting to locate Mr Rewa, the witness had reported to an officer at his local Police station that he had observed Mr Rewa on multiple occasions dropping his son at school and, on another occasion, had chased Mr Rewa from his own property.
60. Mr Rewa was arrested for separate incidents in Auckland in 1993 involving cannabis and theft. While Police officers responsible for the latter file were tasked to interview Mr Rewa in respect of the 1991 burglary, this did not occur prior to his release on bail. Mr Rewa then failed to appear in court in August 1993, and a warrant was consequently issued for his arrest. A conviction was entered for the theft, confirming that Mr Rewa did appear in court later that month. However, it cannot be concluded that Police had a further opportunity to speak to Mr Rewa about the burglary, as there is no record that Police interacted with Mr Rewa at this time, indicating that he may well have made a voluntary appearance in court.
61. In September 1993, a man was seen late in the evening on a property in Parnell, watching a woman through her window. The witness subsequently talked to the man and recorded the registration of his vehicle. Police recognised that it was the same vehicle used for the 1991 burglary and that Mr Rewa was still wanted to interview for this offence. While arrangements were made for a photograph to be obtained for identification purposes, the Police file indicates that no follow-up was undertaken by Police.
62. In October 1993, Mr Rewa was stopped by Police in the Waikato, again driving the same vehicle. This information was subsequently forwarded to staff who had dealt with the 1991 burglary [the file for which had been inactivated in November 1992]. However, the

Police officer tasked to follow-up with Mr Rewa found that the address details he had given when he was stopped proved to be false.

63. During this period in 1993, Police were analysing Otahuhu Watchhouse charge sheets in their search for the individual responsible for the homicide of Ms Burdett. Had Mr Rewa been apprehended for the 1991 burglary at this time he would have been identified as a person of interest to the inquiry on the basis of two of the criteria they were using:

63.1 Offenders residing in Manukau District who have been arrested for sexual offences, primarily sexual violation and indecent assault on adult females.

63.2 Offenders arrested in Papatoetoe area for burglary of domestic dwellings by night, and prowling, peeping and peering.

64. In May 1995, Mr Rewa was stopped by Police, while driving a blue Ford Cortina, and taken to Balmoral Police Station for interview regarding offences against Ms P [which are outlined in detail below in paragraphs 67 to 75]. Unfortunately, no checks were undertaken on the vehicle, and its registration details along with Mr Rewa's association with it were only recorded in a jobsheet.

65. In August 1995, Police investigating a burglary in Sandringham were provided with the details of the same vehicle by a neighbour who saw, and talked to, the offender, who was leaving the scene with stolen property. It was established that Police already had an alert for this vehicle and were interested in obtaining the details of the male Polynesian driver, who had been seen acting suspiciously in Mt Roskill in March 1995. The burglary file was inactivated after attempts made by Police to locate the registered (female) owner of the vehicle were unsuccessful.

66. Following the sexual assault of Ms R in the same Sandringham street in November 1995 [referred to in paragraph 54], she informed Police that officers had attended her address in April 1995, when a man was disturbed looking through her bedroom window. She also informed Police that a neighbour had been burgled around that time, and that a 'Neighbourhood Watch' meeting had been held due to a number of other similar incidents in the street. This line of enquiry was not pursued by Police.

#### The investigation of Ms P's assault complaint

67. On 5 January 1995, Ms P awoke to find an intruder straddled on top of her. She was struck about the face several times and, after a struggle, was thrown onto her stomach and her hands tied behind her back. The intruder subsequently searched Ms P's purse and then left the address. Ms P provided Police with a detailed description of the intruder and expressed confidence in her ability to identify him if she saw him again. The description of the intruder was circulated amongst local Police staff, and 65 individuals were nominated.

68. On 13 January 1995, Ms P identified Malcolm Rewa as the offender after she was shown photographs of each of those nominated. Ms P was positive that Mr Rewa was responsible but she expressed a wish to see Mr Rewa in person to be absolutely certain. While the matter was assigned to Officer I, the investigation was undertaken by Officer J, who conducted extensive enquiries to locate Mr Rewa.
69. On 17 January 1995, after establishing the identity of Mr Rewa's partner and having been informed of the likelihood the couple resided together, Police visited her address in Mangere. Mr Rewa's partner informed them that Mr Rewa spent most of his time in Rotorua and only visited her on occasion. The Police officers in attendance did not find the information provided by her compelling and were, in fact, under the impression that Mr Rewa was at home at the time of their visit. Officer J subsequently sought and was granted a search warrant for the address. On 20 January 1995, Police executed the warrant, by forced entry, but found no one present nor any of the stolen items sought.
70. It is evident that enquiries were also undertaken by Officer K in March 1995, several of which duplicated the earlier work of Officer J. On 5 April 1995, Officer J referred the file for inactivation due to the inability to locate Mr Rewa, and he was entered into the Police database as a '*Person of Interest*', wanted for interview in respect of the file.
71. At 6.25am on 26 May 1995, having been the subject of a routine traffic stop, Mr Rewa was taken to Balmoral Police Station, where he was interviewed by Officer I about his movements in January 1995. Mr Rewa denied responsibility for the offences committed against Ms P. He advised that he was not in Auckland at the time of the incident and, contrary to Ms P's description of the offender, claimed that he had maintained a full beard for almost a year. Officer I's jobsheet containing Mr Rewa's brief statement indicates that Mr Rewa was not asked why he had spent many months ignoring Police's attempts to contact him, nor was he asked about any of the outstanding matters for which he was wanted by Police for interview.
72. Mr Rewa accompanied Officer I to Ponsonby Police Station where he agreed to participate in a formal identification parade. However, Police were unable to immediately find the necessary number of individuals, similar in appearance to Mr Rewa, to participate in the parade. Mr Rewa was released on the understanding that Police would contact him when it had been arranged.
73. Significant efforts were subsequently made by Officer J to contact Mr Rewa and in the next fortnight it became evident that he no longer wished to cooperate with Police. Further enquiries undertaken by Officer J in June 1995 proved that details given by Mr Rewa about his physical appearance were false. The ability to progress the investigation further was hampered by the inability to locate Mr Rewa, and both his partner and lawyer were uncooperative with Police in this regard.

74. On 7 July 1995, the Authority was forwarded a complaint made to Police by the Mangere Community Law Centre, on Mr Rewa's behalf, essentially alleging that Police were harassing Mr Rewa and his partner with their ongoing efforts to contact Mr Rewa. The complaint was referred back to Police for a Police investigation. This was assigned to Officer C, and undertaken primarily on the papers. It is unclear if Officer C attempted to speak to Mr Rewa directly about his complaint. However, it is apparent that Mr Rewa refused, through his lawyer, to make himself available for an identification parade. The investigation was concluded in November 1995, with no finding of misconduct or neglect of duty on the part of Officer I and Officer J.
75. Other than a further enquiry made by Officer J in December 1995 in an attempt to corroborate the alibi given by Mr Rewa during his interview, there appears to have been no further investigation into the matter until a link was made with Operation Harvey in April 1996 [see below].

#### IDENTIFYING AND APPREHENDING MALCOLM REWA AS THE SERIAL SEX OFFENDER

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##### The identification of Malcolm Rewa as the serial sex offender

76. On or about 3 April 1996, Officer D came across the file relating to the sexual assault of Ms A [referred to in paragraphs 13 to 17] among the unsolved sexual assault files from Operation Park. Officer D recognised obvious similarities with the Operation Harvey matters. He noted that Ms A had nominated Malcolm Rewa as the offender at the time and that limited action had been taken to corroborate the alibi he had provided Police. Further checks identified that Mr Rewa had lived at or had associations with addresses in close proximity to a number of the residences in Otahuhu and Rotorua, where the sexual assaults had occurred.
77. Officer D established that Mr Rewa fitted the physical description of the offender and, as a male Maori, born between 1950 and 1970, with burglary convictions, he also fitted the '*criminal profile*' that had been developed by the investigation team. Mr Rewa had been convicted in 1974 and 1975 for other sexual offences, which included the sexual assault, with a similar MO, of a nurse at Auckland Hospital's nurses' home in Greenlane.
78. It was also determined that Mr Rewa was recorded as being wanted by Police for interview in relation to the aggravated robbery of Ms P in her home in Ponsonby in January 1995.

##### The apprehension of Malcolm Rewa

79. While Mr Rewa became the primary suspect following the discovery of Ms A's file, Officer E (as the officer in charge of Operation Harvey) urged caution and a methodical approach to gathering evidence sufficient for Mr Rewa's arrest. It was established that Mr Rewa was also wanted for interview in respect of several offences, including burglary, theft,

violence, and loitering, dating back to 1991. These files were re-activated by Police on 4 April 1996. On the same day, Officer D tasked two Operation Harvey team members to make enquiries into Mr Rewa “*with utmost discretion*”, and with only the knowledge of the team’s senior management.

80. On 17 April 1996, an electronic alert was entered into the ‘*Person of Interest*’ database, recording that Mr Rewa was required for interview, and requesting that the officers in charge of Operation Harvey be contacted urgently if he was located. While Police suspected that Mr Rewa was residing with his partner, the nature and positioning of the property on the street made it difficult to undertake surveillance. The Authority has been unable to determine from Police records what other efforts were made by Police to locate Mr Rewa.
81. As biological family members share particular genetic traits, blood samples were obtained from members of Mr Rewa’s family (who had been located by Police through their covert enquiries) for comparison with the Operation Harvey DNA profile. On 18 April 1996, samples from Mr Rewa’s biological brother and father were provided to ESR. On or about 2 May 1996, ESR informed Police that the first of a sequential series of tests had been unable to exclude either familial sample from the Operation Harvey DNA profile. Given that it was, scientifically, a relatively simple exercise to exclude individuals, the findings indicated a strong relationship between the samples. However, the statistical significance of these results could not be determined without further testing.
82. On 12 May 1996, before ESR could progress matters, Ms X was grabbed and assaulted on a street near her home in Epsom. A family member who came to her aid was able to record the registration of the vehicle driven by the offender as he fled the scene. Police quickly established that the vehicle was registered to Mr Rewa’s partner. The following day a Police surveillance squad identified Mr Rewa entering his partner’s address and, on 13 May 1996, he was arrested after Police made an unannounced forced entry into the home.
83. It is understood that the offences committed by Mr Rewa against Ms P were used to form the basis of the arrest warrant executed by Police, which had been issued on 24 April 1996.

#### Ongoing investigation into Malcolm Rewa

84. Following Mr Rewa’s arrest, the Operation Harvey team continued to gather information and evidence (including re-interviewing those women identified during Operations Harvey and Atlas), make further enquiries in relation to those matters for which Mr Rewa was wanted for interview, and analyse files relating to unsolved sex crimes.
85. Mr Rewa was the subject of charges in relation to all of the assaults identified to that point as being associated with him by way of DNA or criminal profiling. The assessment

of the information about Mr Rewa and the analysis of a number of the unsolved matters had also led to charges relating to the sexual assaults of Ms I (abducted from Parnell on 9 March 1992), Ms L (in Levin on 9 August 1992), and Ms Q (in Takapuna on 17 June 1995). He was charged with sexually assaulting two women on the street near their homes in Mt Eden on 17 and 25 June 1993 but was acquitted of these offences at trial.

86. Mr Rewa was charged for the 1991 burglary, along with burglaries at three other addresses. He was convicted of these following his trial in 1998.
87. Mr Rewa was identified by Police as a possible suspect for numerous other sexual assault, burglary, theft and prowling offences committed between 1989 and 1996. However, it appears that Police determined that there was insufficient evidence to proceed on those matters.





# The Authority's investigation

INDEPENDENT POLICE CONDUCT AUTHORITY

## WHAT IS THE SCOPE AND REMIT OF THE AUTHORITY'S INVESTIGATION?

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88. The Authority's investigation has taken five forms.
89. First, the Authority has spoken with each of the complainants, interviewing two of the parties at length. The Authority has also received information from Ms A about her interaction with Police during their investigation of her sexual assault complaint and subsequent to Mr Rewa's arrest.
90. Secondly, the Authority has reviewed 30 Police files relating to offences committed by Mr Rewa, offences for which he was charged but found not guilty, and offences for which he was a suspect. Given that these paper-based files relate to incidents that occurred between 18 and 26 years ago, not all of the documentation that might be expected to be contained in the files is there. Many of the files were stripped of what Police referred to as "*extraneous papers*" following Mr Rewa's trial. The Authority does not consider this in any way sinister; it was done, of course, without the knowledge that such documents might be relevant for the purpose of a future investigation by the Authority.
91. Thirdly, the Authority has requested that Police review all documentation pertaining to fingerprint evidence from each of the sexual assault scenes. This request was made because, although fingerprints were obtained from some of the scenes, no fingerprint evidence was used to identify or subsequently convict Mr Rewa. Police have advised that none of the prints match those of Mr Rewa, so that they could not have been used to enable his earlier identification as the offender.
92. Fourthly, the Authority has had the benefit of full access to the records held by ESR. Several days were spent at ESR reviewing all of the extensive file material relating to Operation Harvey matters. The Authority has interviewed Scientist B, who was responsible for much of the DNA analysis and profiling, and spoke with her former colleague, Scientist A, who was also involved in case work analysis.
93. Finally, the Authority has interviewed nine current or former Police staff, and spoken with a number of others, to determine their recollection of specific matters in which they were

involved and/or to obtain information about specific Policing practices and systems in the 1980's and 1990's, and how they have been developed over time.

94. Additionally, the Authority has reviewed a number of newspaper and magazine articles published at the time it was established that a serial sex offender was operating and following the arrest of Mr Rewa. The Authority has also reviewed a book published in 2008 by criminologist, Dr Jan Jordan, in which 15 of those women attacked by Mr Rewa were interviewed.
95. The information provided by all of those spoken to by the Authority has understandably been affected by the passage of time. In some instances, individuals had no recall of particular events, or their accounts differed somewhat from the information recorded at the time of the incidents in which they were involved. In these instances, the Authority has tended to rely on the historical record of events except where the more recent account was consistent with other evidence obtained during the Authority's investigation.
96. The Authority has been mindful of the context in which Police work was undertaken during the period in which Mr Rewa's offending occurred. Given practical, scientific, and technological advances in policing, it would be unfair to compare Police actions of that era with the standards of today. The Authority has taken care to place practice and procedure in the appropriate context to ensure that its determinations and findings are made on a fully informed basis. The Authority has also considered developments in Police policy and procedure regarding the investigation of sexual assault matters.
97. The Authority has not undertaken a comprehensive investigation of all elements of the Police handling of offences committed by Mr Rewa between 1987 and 1996. The Authority's findings relate to its investigation into the matters arising from the complaints received, in accordance with the Authority's duties and functions (as outlined on page 39 of this report).
98. It is evident that the underlying concern of Mr Pora's legal counsel is whether Mr Pora was properly convicted of the sexual assault and murder of Ms Burdett. However, the safety of those convictions, and whether they should be revisited, is not within the statutory remit of this organisation. The Authority has a narrower function: to determine whether there was any Police misconduct or any failure of Police practice, policy or procedure.
99. On this basis, there are four issues that fall to be determined by the Authority:
  - 99.1 Should Police have established that a serial sex offender was operating earlier than they did?
  - 99.2 Did Police fail to disclose relevant information about the possible involvement of a serial sex offender to the defence at Teina Pora's first trial?

- 99.3 Should Police have identified Malcolm Rewa as the serial sex offender earlier than they did?
- 99.4 Are there any changes required to current Police practice, policy and procedure relating to their handling of sex offence cases as a result of the Authority's investigation?
100. Two of the complainants to the Authority raise matters relating to Police engagement with them following Mr Rewa's arrest. The Authority has dealt with these matters separately, and has reported to the complainants directly on them.





# The Authority's findings

INDEPENDENT POLICE CONDUCT AUTHORITY

## ISSUE 1: SHOULD POLICE HAVE ESTABLISHED THAT A SERIAL SEX OFFENDER WAS OPERATING EARLIER THAN THEY DID?

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101. For all but three incidents (in Rotorua, Levin, and Takapuna), Malcolm Rewa's sexual assaults were committed in two policing districts, Otahuhu and Auckland City.
102. In the early 1990's, Otahuhu District had a centralised CIB responsible for investigating all serious crime (such as robberies, sexual assaults, and homicides) in Mangere, Papatoetoe, and Otahuhu (amongst others). At the time, Otahuhu CIB ran '*Crime Squads*' that deployed CIB members attached to, and working the same roster as, five general duties branch (or '*uniform*') sections. It was the responsibility of these CIB staff to contain the scene with the help of uniform staff, do initial enquiries, and take initial statements, before passing the file on (sometimes via a subsequent Crime Squad shift) to the applicable CIB office for follow-up.
103. At least seven detectives were involved in some way with two or more of the sexual assaults committed by Mr Rewa in Mangere, Otahuhu and Papatoetoe. As outlined in paragraph 20, Police recognised that the sexual assaults on Ms D and Ms E were likely related, following the attack on the latter in March 1990. However, no serious consideration was given to the possibility that a serial sex offender was operating until Ms J was sexually assaulted in Otahuhu in April 1992. At that time Police believed that the offender had struck four times [see the '*Otahuhu rapes*' at paragraphs 24 and 25] in as many years.
104. Also at that time, Officer D observed similarities between Ms J's and Ms Burdett's crime scenes, but no one else recognised that the offences in the three suburbs were possibly linked. With hindsight, it may have been prudent for Officer C or Officer D to make enquiries to determine whether similar offences had been committed in Otahuhu's neighbouring suburbs. Although this would not have served to identify the offender, it would have indicated that he was not necessarily restricting his movements to Otahuhu. Indeed, during this period Mr Rewa had also committed sexual assaults on five other women in Otahuhu's neighbouring suburbs of Mangere and Papatoetoe, and in the Auckland City suburb of Hillsborough.

105. Sexual assaults committed in Auckland City District [as outlined in paragraph 39] were all typically responded to by crime squad investigators from the Auckland City District CIB office. Files were transferred for follow-up to the CIB or CIU [Criminal investigation Unit, which was a mixture of uniform and CIB staff] office attached to the Police station that corresponded with the location of the offence. Links were made between two offences committed in the suburb of Pt Chevalier (Ms K and Ms M in August 1992) because they were both investigated by Ponsonby Police Station CIB. Similarly, a crime squad investigator recognised links between two offences in the adjacent suburbs of One Tree Hill and Remuera (Ms S and Ms T in December 1995), which were brought to the attention of the detective inspector responsible for the CIB offices within the Eastern Area. No such links were made between the assaults in the district as a whole until all of the district's unsolved sexual assault files began to be analysed as part of Operation Atlas in February 1996.
106. The Authority's review of the files identified that, in some instances, Police made initial assumptions about the veracity of the complaint or the motive of the offence that led to lines of enquiry not being fully progressed. At times, Police also ignored what, with hindsight, was important information provided by the sexual assault complainant suggesting that the attack was not an isolated incident, and this may have contributed to the failure of Police to recognise the possibility that a serial sex offender was operating.
107. However, the Authority does not consider that any real criticism can be levelled at Police investigating these matters for failing to identify earlier that a serial sex offender was operating in Otahuhu, or for failing to recognise that he was also responsible for those offences committed in the Auckland City District.
108. Mr Rewa committed seven sexual assaults in the Otahuhu District and 10 in the Auckland City District between April 1989 and December 1995. This was at a time when it was possible for crime squads to respond to multiple reports of sexual assault on any given night or weekend, and for CIB staff from the main CIB offices to each be holding 20-30 serious crime investigation files. Indeed, the volume of crime was such that Police officers were unlikely to be aware of offences occurring outside of their area. Unless colleagues possessed specific information about an offence or a suspect that they felt the need to report, there was also limited information/intelligence sharing between Police stations.
109. It was not a common practice for intelligence to be shared between districts, nor did a platform exist to allow this to occur easily. Given that Police work at this time was primarily paper-based, it is unlikely that traditional methods of policing could have uncovered the inter-district link prior to 1995, when ESR matched the DNA profiles from Ms D's, Ms Burdett's, and Ms H's sexual assaults. Following this result, the most significant advances in the Police investigation came from identifying and linking unsolved sexual assault files using '*criminal profiling*', which had, until that point, been a method of

policing in its infancy here in New Zealand. Police had little or no experience in dealing with an intruder serial sex offender. The fact that there turned out to be two serial sex offenders operating at the same time, let alone in the same city, was unprecedented and, understandably, complicated matters for both Police and ESR.

#### FINDINGS

Police cannot be criticised for failing to establish earlier that a serial sex offender was operating in the Auckland region.

#### ISSUE 2: DID POLICE FAIL TO DISCLOSE RELEVANT INFORMATION ABOUT THE POSSIBLE INVOLVEMENT OF A SERIAL SEX OFFENDER TO THE DEFENCE AT TEINA PORA'S FIRST TRIAL?

110. Mr Pora's defence counsel have expressed concerns to the Authority that prior to his trial in June 1994, Police suspected that the, yet unidentified, serial sex offender was connected to the sexual assault and murder of Ms Burdett in her home in March 1992. It has been alleged that if, indeed, this was the case, Police may have failed in their duty to disclose relevant information to Mr Pora's defence team at the time.
111. The sequence of events has been traversed, and information possessed by Police outlined, in paragraphs 31, and 34 to 45.
112. In early 1992, Officer D advised the officers in charge of the Burdett homicide inquiry of his observations about the similarities between Ms J's and Ms Burdett's crime scenes, and shortly thereafter he made a request to Scientist A (without their knowledge) for the two matters to be compared. It is also apparent that DNA samples from the 'Otahuhu rapes' and the Burdett homicide (along with several others) were processed, on several occasions, in the same batch. These facts are not in contention.
113. However, none of the information reported to the Authority, nor any document in the possession of ESR or Police reviewed by the Authority, identifies that Police investigating the homicide considered that this theory had merit. Hence, it was not pursued as a line of inquiry at the time. With the benefit of hindsight, it is unfortunate that more weight was not given to Officer D's comments. However, it was a judgement call by the officers in charge of the investigation at the time. Such judgement calls as to which lines of inquiry are worth pursuing are a necessary part of any investigation, and the Authority does not consider that these officers should now be criticised for a making a decision that, in retrospect, turned out to be wrong.
114. The Authority has been informed by ESR that the batching of an assortment of cases was merely a coincidence and that no comparison between the cases was intended or made

at this time. Unless a specific request was made for comparison (as was the case with Ms D's, Ms E's, and Ms J's matters), processing multiple cases in batches was simply done as a practical time and cost-saving measure. The Authority has no reason to doubt the information provided by ESR.

115. As outlined in paragraph 45, ESR documents indicate that they commenced a comparative analysis, unsolicited by Police, between Ms D's, Ms H's, and Ms Burdett's matters at some point after 17 January 1995. On this basis, the Authority is satisfied that Police did not have in their possession any evidence linking the sexual assaults in Otahuhu with the Burdett homicide in June 1994 and, therefore, they did not fail to disclose relevant information to defence counsel acting for Mr Pora.

#### FINDINGS

Police did not withhold relevant disclosure material about the possible involvement of a serial sex offender from Teina Pora's defence team prior to his trial in June 1994.

### ISSUE 3: SHOULD POLICE HAVE IDENTIFIED MALCOLM REWA AS THE SERIAL SEX OFFENDER EARLIER THAN THEY DID?

#### The investigation into Ms A's incident

116. The fact that Ms A provided Police with a positive line of inquiry, namely, the identity of the alleged offender, is not in contention. At the time this information was received Police had already issued a 'special notice' [an internal Police memorandum] seeking contact from Police staff with "any information re this offence or the MO of the offender or similar offences and also if anyone has any knowledge of Highway 61 members or associates who have been convicted of rape previously". Significantly, the full physical description, gang association, and history of sexual offending of the offender Police were seeking, were an exact match to Mr Rewa.
117. The Authority considers that the Police investigation into this incident was inadequate. In particular, Police failed to obtain a statement from Ms A regarding the identification; Police spoke with Mr Rewa, informally, almost seven months after they were provided with his name; there was a notable lack of probing of Mr Rewa for details about the night of the attack; and, principally, there was no evidence of any attempt to make inquiries that might have corroborated or called into question the alibi given by him.
118. The Police investigation file contains very limited information about the investigation and its conclusion. The Authority has been unable to establish who was assigned to investigate the matter following the initial response by Police or who was responsible for the oversight of the investigation. It is, however, evident that more than one officer was



involved in conducting follow-up enquiries and liaising with Ms A. The officer who spoke with Mr Rewa, Officer A, unreservedly accepted that the quality of the investigation undertaken by Police was not of an acceptable standard and expressed significant regret about the consequences of this for Ms A and, with hindsight, the impact this may have had on the women subsequently assaulted by Mr Rewa.

119. Further, the comments made by Officer E to both Ms A and the media in 1998, supporting Police actions at the time of the original investigation, were clearly inaccurate and demonstrated that he did not have an adequate knowledge of that file.
120. The Authority is unable to say whether, if a proper investigation had been undertaken at the time, Mr Rewa would have been arrested and successfully prosecuted.

#### FINDINGS

Police were provided with information sufficient to implicate Malcolm Rewa as the offender for the sexual assault of Ms A, and failed to investigate that information properly.

Officer E should have ensured that he had an adequate understanding of the details of the investigation into the sexual assault of Ms A before speaking on the matter.

#### Other Police sexual assault investigations

121. During its investigation, the Authority reviewed a large number of Police files relating to the sexual assault complaints committed by Mr Rewa and, in doing so, considered the nature of the investigative practice undertaken. The quality of these investigations varied. For the most part, these investigations were appropriate and only inactivated when all lines of enquiry had been exhausted. However, several files evidenced apparent issues, including poor practices in interviewing complainants; inappropriate assumptions about the reliability and credibility of complainants; lack of supervisory oversight; greater priority given to other serious crime; and the failure to follow-up positive lines of inquiry.
122. The Authority has not followed-up on these potential deficiencies by interviewing all relevant officers to explain the reasons for the approach they took. There are several reasons for that. Firstly, these matters have not been the subject of complaints to the Authority. Secondly, many officers and complainants are unlikely to recall these matters with sufficient reliability or in enough detail to enable the Authority to make an informed judgement in individual cases. Thirdly, a number of the issues were recognised and addressed by Operation Harvey detectives in preparation for Mr Rewa's trial. Finally, these types of issues were extensively canvassed in the Report of the Commission of Inquiry into Police Conduct in 2007 [see paragraph 139] and Police practice has changed significantly in light of the recommendations in that report. It, therefore, seemed that

there would be little to be gained by following up on historical issues that no longer reflect current policy or procedure.

123. As a result, no further comment can be made about these potential deficiencies. Even with the benefit of hindsight, it is impossible to determine whether Mr Rewa would have been identified earlier as the serial sex offender had these possible failings not existed, or the extent to which this would have impacted on his continued offending. Further, in the absence of information about available resources and other investigative priorities at the time, the Authority cannot criticise the Police for the potential deficiencies identified.

#### The investigation into Ms P's incident

124. As outlined from paragraph 67, Ms P was assaulted and robbed in her home in Ponsonby on 5 January 1995. This incident was coded by responding Police as robbery and burglary. However, it is evident that the Police officer who interviewed Ms P was cognisant of the possibility that the offence was sexually motivated. Ms P reported that she was fearful during the incident that this might be the case. However, she stated that the intruder did not actually behave in a manner that demonstrated this motive. The Authority considers that the subsequent Police investigation, undertaken by Officer J, was extremely thorough, and significant effort was given to establishing the whereabouts of Mr Rewa for the aggravated robbery.
125. With the exception of their failure to initially record the aggravated nature of the offending (that is, the physical assault of Ms P) the Authority is satisfied that Police's conclusion that they were seeking a robber was not unreasonable in the circumstances. This was also the position of Officer C (who reviewed the Police file following Mr Rewa's harassment complaint), as he concluded, "*Clearly the criminal offending disclosed in the circumstances are that of burglary and robbery.*"
126. The record of Officer I's interview with Mr Rewa in May 1995 is brief. There might have arguably been enough evidence to arrest Mr Rewa for the offences committed against Ms P on the basis of Ms P's initial identification (particularly given the fact that Police were ultimately granted a warrant for Mr Rewa's arrest in April 1996 for these offences). However, it is appreciated that Officer I wished to obtain corroborative evidence with an identity parade before obtaining an arrest warrant.
127. As discussed below, there might also have been sufficient evidence to arrest Mr Rewa for the 1991 burglary [see paragraph 59] and the 1993 prowling incident [see paragraph 61]. However, it appears that Officer I was not aware that Mr Rewa was also the primary suspect for these two other criminal matters or that he had a well-documented history of providing false information to Police.
128. The Authority cannot speculate as to whether taking action to arrest and detain Mr Rewa in May 1995, may have raised him as a suspect for Operation Harvey earlier or the extent to which this may have removed any opportunities for him to continue offending.

### Police investigations into other offending

129. In conducting its independent investigation, the Authority reviewed a number of Police files relating to burglary and loitering offences that were committed by Mr Rewa or involved him as a suspect [see section beginning at paragraph 58]. These types of offences, often referred to by Police as '*volume crime*', were not typically investigated by CIB staff. As with the Police investigations into the sexual assault offences, there were variances in the investigative practices undertaken.
130. While the Authority has not followed up on each of the offences discussed [for the same reasons as those outlined in paragraph 122], we consider that Police possessed evidence to arrest Malcolm Rewa as the offender for the 1991 burglary [see paragraph 59] and the 1993 loitering [see paragraph 61] incidents. Notwithstanding the existence of that evidence, Police failed to conduct enquiries to determine whether this was sufficient to prosecute Mr Rewa. However, even if Police had done so, it is unlikely any subsequent prosecution would have led to the earlier identification of him as the serial sex offender.

#### FINDINGS

Police were provided with information sufficient to implicate Malcolm Rewa for a number of burglary and loitering offences. Police should have conducted follow-up inquiries to determine whether there was sufficient evidence to prosecute him for the 1991 burglary and 1993 loitering incidents.

However, the failure of Police to do so is unlikely to have impacted on their ability to identify Mr Rewa earlier as the serial sex offender.

### Offending in London Street, Ponsonby

131. A further story aired on TV3's '*3<sup>rd</sup> Degree*' on 21 May 2014. This report suggested that Police overlooked Malcolm Rewa's involvement in six incidents, including three sexual assaults, at addresses in London Street [including its extension, Harbour Street] in Ponsonby. It suggested that Police failed to take action in these instances and implied, therefore, that Mr Rewa was not apprehended as early as he should have been. There are a number of reasons why the Authority considers that some of the information reported in this story was both inaccurate and misleading.
132. Firstly, the report referred to the sexual assault of Ms A in 1987, and inferred that the incident occurred in London Street. As outlined in paragraph 13, Ms A was, in fact, assaulted at a residence in Glen Innes. Ms A then went to stay at an address in London Street, where she subsequently identified Mr Rewa. Therefore, only a tenuous link exists between this offence and those actually committed by Mr Rewa in London Street, and suggesting that Police should have recognised this link is unreasonable.
133. Secondly, the story referred to burglary and prowling offences committed by Mr Rewa, respectively, in 1983 and 1991 [as outlined in paragraph 58]. Contrary to information

given in the story, Mr Rewa was convicted for both offences. No information existed at that time to link these to the series of sexual assaults. The Authority considers that it is unreasonable to suggest that these offences could be considered as part of a so-called pattern that should have identified Mr Rewa as the serial sex offender earlier.

134. Thirdly, the report referred to the sexual assaults of two women, both of whom resided in London Street, in 1990 and 1994. As outlined in paragraph 87, following Mr Rewa's arrest, and as a result of the ongoing review of unsolved sexual assault, burglary, theft, and prowling files, Mr Rewa was identified as a suspect for several sexual assaults committed between 1989 and 1996. The two assaults in London Street were amongst these. However, this does not mean that Mr Rewa should have been identified as a suspect at the time. Although the story identified him, definitively, as the person responsible for these offences, Police in fact determined, as a result of the review, that there was insufficient evidence to charge him and he was not, therefore, prosecuted for these matters.
135. Finally, the story also referred to the incident involving Ms P (who also lived on London Street), as a "sex attack", and that Mr Rewa was questioned about this in May 1995. As outlined in paragraphs 124 and 125, Police at that time were investigating an aggravated robbery and, therefore, the story as it was reported is not an accurate portrayal of the incident Police reasonably thought they were dealing with.
136. Having considered the facts of these matters, the Authority has determined that it is inaccurate to conclude that Malcolm Rewa committed a "crime spree" in this street, and unreasonable to criticise Police for failing to recognise earlier that the offences, which he had been identified at the time as being responsible for, were connected to sexual assaults committed by a, then, unidentified serial sex offender.

#### FINDINGS

There is no action that Police could have taken in any of the offences identified in the media story as occurring in London Street that would have identified Malcolm Rewa earlier as the serial sex offender.

#### ISSUE 4: ARE THERE ANY CHANGES REQUIRED TO CURRENT POLICE PRACTICE, POLICY AND PROCEDURE AS A RESULT OF THE AUTHORITY'S INVESTIGATION?

137. The Authority's investigation has focused on the crimes committed by Malcolm Rewa and the Police response to these. It has not undertaken a comprehensive review of current policy, practice and procedure relating to the handling of investigations into sexual assault matters. There is nothing arising from the Authority's review of Police's

management of complaints in these cases that results in the need for us to make recommendations now.

138. Policing strategy and practices have developed and improved significantly with education, training, and resources. There is a different approach to adult sexual assault cases, generally. Any offending of a sexual nature is referred to the relevant CIB and then to an Adult Sexual Assault Unit (ASAU). Each Police district now has a unit, staffed with fully trained and experienced Police officers, who are specifically responsible for investigating adult sexual assault complaints and providing victims with access to support services.
139. Some of the progress, particularly with regard to the treatment of victims of sex crimes, can be attributed to the Commission of Inquiry into Police Conduct, established in 2004, to independently investigate the way in which Police had handled allegations of sexual assault by several serving and former members of Police. The resulting report, released by Dame Margaret Bazley, in 2007 identified a range of systemic issues and made 47 recommendations to Police, which included several relating to the way Police prioritised, resourced and conducted sexual assault investigations and communicated with complainants.
140. The Auditor-General is responsible for monitoring the progress of the implementation of the recommendations, all of which were accepted by Police. The Authority supports that continued monitoring, and the ongoing efforts by Police to ensure that staff receive specialist training in the undertaking and oversight of sexual assault investigations.
141. The development of policing strategy and practices over the last two decades has also been aided by science, research and technology. The Police database, known as the “*Wanganui computer*” was superseded, in 1995, by ‘*NIA*’ (the National Intelligence Application), a more modern tool for searching for and recording relevant information. Police systems are now such that paper files are no longer relied upon, and documents obtained or produced during a Police investigation can be accessed electronically.
142. In the 1990’s Police National Headquarters had a small ‘*M.O. Section*’ that received copies of offence reports or other relevant file documentation from frontline officers or records staff, nationwide, for data entry. The section’s primary function was to create dossiers on offenders and, while staff collated and inputted information on unsolved crimes, no analysis was undertaken on the data collected. Each Police district now has an inspector or detective inspector in charge of intelligence, who is responsible for the identification and analysis of patterns and trends in various crimes.
143. Further, given the crucial role that offender profiling played in Operations Park and Harvey, the M.O Section was succeeded by a better resourced and more sophisticated Criminal Profiling Unit. Frontline Police staff can submit suitable cases to the unit, where information is recorded and analysed using an electronic database known as ‘*ViCLAS*’

(Violent Crime Linkage Analysis System). The tool is designed to link violent offences using all aspects of an offender's MO and criminal signature.

144. Operations Park and Harvey (including Atlas) also highlighted the invaluable role of the ESR and the extent to which DNA and DNA analysis contributed to the resolution of serial crimes of this type. The experience gained from these operations led to the introduction of the Criminal Investigations (Bodily Samples) Act 1995 (only the second legislation of its type in the world) and the development of the national '*DNA Profile Databank*', which includes databases that store DNA profiles from individuals and from unsolved crimes.
145. The Authority is satisfied that no changes are required to current practices, policies and procedures in response to the Authority's findings in this matter.



# Conclusions

INDEPENDENT POLICE CONDUCT AUTHORITY

146. Section 27(1) of the Independent Police Conduct Authority Act 1988 (the Act), requires the Authority to form an opinion as to whether or not any act, omission, conduct, policy, practice or procedure the subject-matter of an investigation was contrary to law, unreasonable, unjustified, unfair or undesirable.
147. The Authority has formed the opinion, pursuant to section 27(1) of the Act, that the following actions and omissions were inadequate, unprofessional, and unfair:
  - a) Police's failure to properly investigate information implicating Mr Rewa as the offender for the sexual assault of Ms A.
  - b) Officer E's failure to ensure that he had an adequate understanding of the details of the investigation into the sexual assault of Ms A before speaking on the matter.
  - c) Police's failure to conduct follow-up inquiries to determine whether there was sufficient evidence to prosecute Mr Rewa for the 1991 burglary and 1993 loitering offences.
148. Malcolm Rewa is one of this country's worst sex offenders, and his crimes have had a devastating impact on many women and their families. While a number of the sexual assaults he committed can only be described as brazen, it is evident that his offending was, for the most part, methodical and demonstrated an awareness of advances in policing and forensic practices. Indeed, Mr Rewa went to some lengths to avoid being identified and, subsequently, evade capture.
149. Concerns have been expressed about the safety of Teina Pora's convictions, as they relate to the murder and sexual assault of Ms Burdett. The Authority reiterates that this issue is not within the statutory remit of this organisation. We have a narrower function: to determine whether there was any Police misconduct or any failure of Police practice, policy or procedure.
150. The Authority has undertaken a detailed investigation into Police's handling of Mr Rewa's offending as raised by complainants to the Authority. The number of offences involved and the passage of time that has passed has made this a complicated process. The

Authority considers that, at times, Police investigative practices were unsatisfactory and fell below what could reasonably be expected. However, there is insufficient evidence that any of the identified failings impacted on the ability of Police to identify Mr Rewa earlier as the serial sex offender.

A handwritten signature in black ink, appearing to read 'David Carruthers', written in a cursive style.

JUDGE SIR DAVID CARRUTHERS

CHAIR

INDEPENDENT POLICE CONDUCT AUTHORITY

24 July 2014



# About the Authority

## WHO IS THE INDEPENDENT POLICE CONDUCT AUTHORITY?

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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 Sir David J. Carruthers.

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

## WHAT IS THE AUTHORITY'S ROLE?

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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;
- investigates, where there are reasonable grounds in the public interest, incidents in which Police actions have caused or appears to have caused death or serious bodily harm.

On completion of an investigation, the Authority must determine whether any Police actions were contrary to law, unreasonable, unjustified, unfair, or undesirable. The Authority can make recommendations to the Commissioner.



**IPCA**

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