



IPCA

Independent Police
Conduct Authority

Whaia te pono, kia puawai ko te tika

Briefing to Incoming Minister 2014 General Election

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The Authority at a glance

1. The Authority exists to ensure there is an independent agency whose role is to oversee the conduct of the New Zealand Police. This oversight is necessary so that the public have trust and confidence in Police integrity and professionalism.
2. The Authority effectively achieves its core purpose of maintaining and enhancing public trust and confidence in the Police when its work not only holds the Police to account for misconduct and recommends appropriate remedial action, but also prevents similar problems from recurring by influencing future Police policy, practice and procedure.

SNAPSHOT OF THE AUTHORITY'S WORK

	2013-14 (subject to audit)
Revenue from the Crown	\$4,006,000
Total income	\$4,042,391
Total expenditure	\$4,198,373
Total number of complaints/referrals received	2,193
Number of complaints/referrals independently investigated by the Authority (category 1)	56 (3%)
Number of Police investigations from complaints/referrals actively overseen by the Authority (category 2)	112 (5%)
Number of Police investigations from complaints/referrals reviewed by the Authority at their conclusion (Category 3)	103 (5%)
Number of complaints/referrals referred to Police for resolution by mutual agreement with complainant (category 4)	723 (34%)
Number of complaints/referrals declined (Category 5)	1142 (53%)
Number of public reports released	28
Number of FTEs	25.2

RECENT AUTHORITY ACHIEVEMENTS

3. The Authority is focusing on achieving greater effectiveness and efficiency in its work. To that end the Authority has effected substantial improvements in its processes and the quality of its outputs over the past 18 months. This includes:
- A substantial reduction in the backlog of cases to being investigated or reviewed by the Authority.
 - A more timely resolution of complaints and referrals, with specific timeliness measures introduced to the Authority's 2014-15 Statement of Performance Expectations.
 - Greater public visibility of the Authority, particularly through the publication of the results of more Category 1 investigations (28 public reports in 2013/14 compared to 9 in the previous year).
 - More effective liaison with Police.
 - Early identification of issues affecting Police practice, policy and procedure and the development of operational processes to work with Police to address these issues as soon as possible.
 - Early identification of potentially adverse findings so these can be appropriately discussed and addressed with Police prior to the conclusion of an investigation.
 - Greater Authority involvement in reviews of specific Police policies identified in investigations as requiring reform, for example the Police fleeing driver policy.
 - Systematic identification of issues arising from similar complaints and referrals; and the development of generic reports addressing those issues with a view to influencing Police practice, policy and procedure (for example, the Authority's recent report on the Police handling of 'out of control' parties).
 - More effective and efficient Authority investigative processes using multi-disciplinary teams, with investigation plans that are closely budgeted and supervised by senior management.
 - The Authority's relocation to more operationally-efficient premises that enables all staff to be located on a single floor together. The new open plan environment encourages the type of collegial, quality-focused, multi-disciplinary working approach that is important for the Authority's future success.

FUTURE DIRECTION

4. The Authority is looking ahead to the next steps that will further enhance its work. These include:
 - Focusing on the early resolution of cases to reduce delay while also developing more flexible ways of handling some complaints.
 - Ensuring the Authority better meets the expectations of complainants.
 - Using examples of Authority investigations and reviews as case studies to feed into Police training.
 - Ensuring lessons learned from the Authority's work are incorporated into Police policy, practice and procedure in an effort to increase the emphasis on prevention, which will in time reduce the number of complaints received by the Authority.
 - Adjusting management and operational structures to ensure future sustainability in view of changing work pressures.

Functions of the Authority

5. The Authority is established under the Independent Police Conduct Authority Act 1988. It is an Independent Crown Entity. Under the Act, its purposes are to:
 - receive complaints (i) alleging misconduct or neglect of duty by any Police employee or (ii) concerning any Police practice, policy or procedure affecting a complainant; or
 - investigate incidents in which a Police employee (acting in the execution of his or her duty) causes or appears to have caused death or serious bodily harm.
6. The Authority also has a Memorandum of Understanding with the Police which was revised earlier this year. The MoU covers instances which may present reputational risk to the Police including serious offending by a Police officer or Police actions that may have an element of corruption. Under the MoU, cases are referred by Police to the Authority even though there may not be a complaint from a member of the public, or there may not have been a death or serious bodily harm.
7. Under section 17 of the IPCA Act, when the Authority receives a complaint it can investigate the complaint itself; refer it to the Police for investigation under the Authority's oversight (which may include direction of the Police investigation, oversight, or review/audit upon completion of the Police investigation); defer action; or take no action.

8. The Authority does not have the power to generate own motion investigations or to prosecute Police. Instead the Authority makes recommendations to Police which may include that disciplinary or criminal proceedings be considered or instituted.
9. If the Authority is not satisfied with the Police response to its recommendations, the Authority must inform the Attorney-General and the Minister of Police. If it considers it appropriate the Authority may also transmit a copy of its report to the Attorney-General for tabling in Parliament, and the Attorney-General must do so (section 29).

Optional Protocol to the Convention Against Torture (OPCAT)

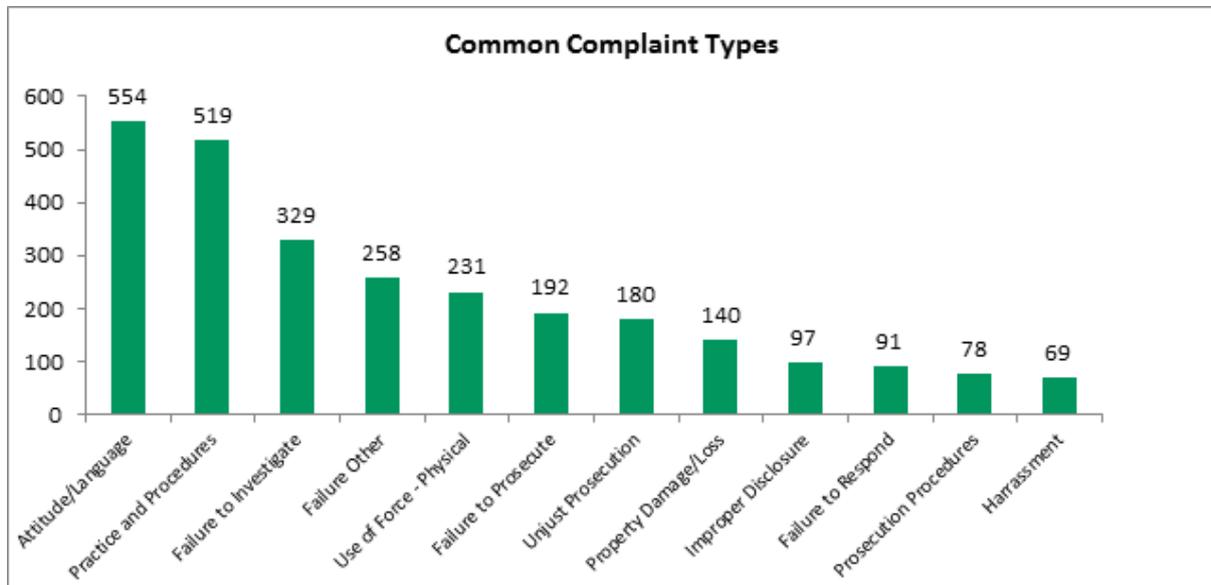
10. Separate, but allied to the management of public complaints against the Police, the Authority also serves as a National Preventive Mechanism under the Crime of Torture Act 1989, which implements the United Nations Optional Protocol to the Convention Against Torture (OPCAT). This involves inspecting Police detention facilities throughout New Zealand to ensure they are safe and humane and that they meet international standards.

How the Authority operates

11. The Authority receives on average 2000 complaints or Police referrals (generically described as 'complaints') each year relating to allegations of Police misconduct. This has increased in the last two years. If the pattern of complaint volume continues to increase as it has done in the first three months of the new financial year, there will be a further 20 per cent increase this financial year compared to 2013/14.
12. Once a complaint is received by the Authority a request for information is usually lodged with Police so that any information Police have relating to it is presented to the Authority.
13. On receipt of that information the Authority categorises the complaint according to the level of seriousness. The essence of the IPCA's approach to complaint management is that complainants should receive a timely and proportionate response to their complaints.
14. The five categories of complaint and the manner in which they are dealt with are described on pages 8 - 10.

OVERVIEW OF COMPLAINT TYPE AND VOLUME

Common complaint types (top 12) in the 2013/14 financial year



Complaint volumes over the past three financial years



EXPLANATION OF CATEGORIES

15. On receipt of a complaint the Authority assesses the complaint information before allocating it to one of the five categories below. From time to time the Authority may receive additional information relating to a complaint after it has been categorised. If this occurs the Authority will reassess the complaint and may choose to re-categorise it.

Category 1: IPCA independent investigation

16. This category covers instances of death or serious bodily harm associated with Police actions, and serious complaints with high public interest.
17. Complaints allocated to Category 1 are independently investigated by the Authority. Only about three per cent of complaints are placed into this category and a parallel Police investigation is usually carried out.
18. In conducting its own independent investigation the Authority maintains regular contact with Police at an appropriate level to raise issues about the investigation that need to be discussed or responded to. The Authority has recently initiated a new approach whereby any potential adverse finding against Police is drawn to the attention of Police while the Authority's investigation is on-going. This initiative is part of the Authority's on-going work to enhance its effectiveness by developing a new process for the early resolution of cases and by increasing its emphasis on prevention. Notwithstanding this early warning process, any adverse findings are still made public at the conclusion of the Authority's investigation.
19. As the Authority's investigation progresses a multi-disciplinary team of investigators, report writers and analysts work on the file. The multi-disciplinary approach to investigations is a relatively new initiative that has resulted in a significant reduction in the backlog of cases that confronted the Authority in the last financial year.
20. The Authority completed 50 independent investigations in the 2013/14 financial year, compared to 44 during the previous financial year.
21. As at 15 September 2014, the Authority was working on 53 independent investigations.
22. At the conclusion of an investigation a public report is released. Over the past 18 months the Authority has changed its public reporting approach. The Authority now publishes the findings of an investigation unless there is an overriding private interest in maintaining confidentiality. In the 2013/14 financial year the Authority released 28 public reports compared to nine in the 2012/13 financial year.
23. Some of the reports that have gained significant media interest over the past six months include:
 - Report on the Police handling of 'out of control' parties – August 2014
 - Report on the Police investigations into offending by Malcolm Rewa – July 2014

- Report on Police investigation of alleged unlawful interception of private communications by Government Communications Security Bureau – July 2014
- Summary report on Police response to media enquiries about 'Roastbusters' – May 2014
- Summary report on death of Adam Palmer in Police custody – April 2014

Category 2: Police investigation with active oversight by the Authority

24. This category covers serious incidents, including those that may lead to the prosecution of Police officers, for example allegations of assault. About five per cent of cases were placed into this category during the 2013/14 financial year.
25. Category 2 complaints are generally of a less serious nature that do not require independent investigation. Complaints in this category are referred to Police for appropriate action/investigation, which is then proactively overseen by the Authority. The Authority does this by accessing a Police database and making regular phone calls and sending emails to Police Professional Conduct managers and investigating officers.
26. At the conclusion of the investigation process once the Authority has reviewed the case, the outcome is communicated to the complainant by the Police.
27. From time to time, if the Authority considers a Category 2 file is in the public interest it may choose to report publicly on the outcome of that complaint.
28. As at 15 September 2014, the Authority was working on 99 Category 2 reviews.

Category 3: Police investigation with Authority review at its conclusion

29. Complaints allocated to this category include minor or non-injury assaults, property damage, serious traffic matters, or a failure to report significant matters. About five per cent of cases were placed into this category during the 2013/14 financial year.
30. Once a complaint is allocated as a Category 3 file, the Authority sends all relevant information relating to that complaint to Police. The Police then complete an investigation into the complaint and the Authority fully reviews the Police investigation at its conclusion. Police then inform the complainant of the outcome of their case.
31. As at 15 September 2014, the Authority was working on 94 Category 3 reviews.

Category 4: Conciliation

32. This category covers complaints that the Authority considers appropriate for resolution by mutual agreement between the Police and the complainant. They include, for example, excessive delay or rude or inappropriate comments or behaviour. The Authority sends information relating to a Category 4 complaint to Police who then work with the complainant in an effort to reach a mutually acceptable outcome. About 34 per cent of cases were placed into this category during the 2013/14 financial year.

Category 5: No further action

33. Category 5 complaints combine those the Authority considers minor, older than 12 months at the time of reporting, disclosing no issue requiring investigation or subject to proceedings before another Tribunal (usually a Court). In these cases, the Authority declines jurisdiction and takes no action. About 53 per cent of cases were placed into this category during the 2013/14 financial year.

The Authority is independent of Police

34. The Authority's credibility as an oversight body depends upon its actual and perceived independence. If the Authority is perceived to be too close to the Police, or to be rubber-stamping Police decisions, it will fail to achieve its core purpose. At the same time, the ability of the Authority to produce outcomes that are seen to be fair, and to influence Police policy, practice and procedure, depend upon effective working relationships with the Police. Independence does not necessarily mean distance. A delicate balance must be struck between these competing requirements.
35. The Authority strives to ensure that it has a cooperative and consultative relationship with Police throughout the country, whilst always being clear that independent findings and recommendations are made by the Authority on the matters that it deals with.
36. In order to increase public understanding of the Authority's independence, and therefore the volume and effectiveness of its work, the Authority has been working hard over the past 18 months to increase its public profile and visibility. To that end, the Authority has changed its public reporting approach. As outlined earlier in this briefing the Authority now publishes the findings of an investigation unless there is an overriding private interest in maintaining confidentiality. The Authority also actively issues media releases in order to draw the public's attention to issues it reports on.
37. In addition the Authority will very occasionally hold a press conference in order to communicate its views directly in the public arena, for example in high-profile cases such as Operation Eight or the Police investigations into offending by Malcolm Rewa.

38. As a result of the activities of the Authority and the work it has done the Authority has received a great deal of media and public attention. This has enhanced the recognition of the role of the Authority and may have contributed to the number of complaints.

Operational priorities

NEW PROCESSES FOR EARLY RESOLUTION

39. The Authority's investigative processes are likely to be seen as effective and having integrity only if they produce timely and fair outcomes. If there is a long delay before the Authority reaches a decision on Police action, complainants, Police officers and the public will be dissatisfied with the process regardless of the outcome.
40. The Authority has already made a number of changes to its business processes to improve the way in which it filters and prioritises incoming complaints and referrals. This is designed to ensure that an appropriate level of resource is applied to those cases that require independent investigation or proactive monitoring and review. However, the Authority recognises that there are many cases that are still taking too long to resolve. In particular, there are a substantial number of cases with straight-forward issues that can be addressed quickly and expeditiously, with effective outcomes that can be achieved without substantial and protracted investigations.
41. Over the next four years the Authority will work closely with the Police to develop a more systematic early resolution process that can be applied in appropriate cases. This will not only produce better outcomes but has the potential in the long term to free up resource that can be applied to those cases that need more in-depth investigation and review.

INCREASING THE EMPHASIS ON PREVENTION

42. As noted earlier in this briefing, the Authority has developed a practice of early identification of issues of policy and procedure, and works proactively and cooperatively with the Police to determine what changes are required (the Authority's work with Police on the review of the current Police Fleeing Driver Policy is an example of this). This should substantially enhance the impact of our work in improving future policing. Over the next four years the Authority also intends to work with the Police to use the cases it investigates and reviews as case studies that can be fed into Police training at a range of levels (from Police recruits to specialist squads and supervising officers). This will allow the Police to reflect on incidents that have come to the attention of the Authority and learn the appropriate lessons from them.

MONITORING AND IMPROVING POLICE PLACES OF DETENTION

43. Over the next four years the Authority intends to review its approach to fulfilling its responsibilities as a National Preventive Mechanism to monitor and report on Police places of detention under the Crimes of Torture Act. The review will be based on the key principle that in the first instance the Police themselves should bear the primary responsibility for ensuring that Police places of detention meet the required standards, subject to the Authority's oversight and supervision. To that end, it is intended that an agreed National Standard for detention facilities will be established with the Police, covering both the physical construction and environment and the custody and care of detained prisoners. The Police will then assess and report on compliance with that Standard, with regular auditing of those self-assessments by the Authority. This will enable the systematic prioritisation of areas of greatest need and the progressive upgrading of Police custodial facilities as resources are available. The National Standard is currently under development and will be completed during this financial year.
44. In addition the Authority is currently at the stage of drafting a public report on custodial management issues which it expects to publish at the end of this calendar year.

Key issues for the Authority

INCREASING COMPLAINT AND REFERRAL VOLUMES

45. Increasing complaint and referral volumes place a great deal of pressure on the Authority given its current resources. Already the Authority only independently investigates or actively oversees less than ten per cent of complaints or referrals it receives. The Authority reviews a Police investigation at its conclusion in a further five per cent of cases. The current involvement of the Authority in such a small proportion of cases, albeit the most serious or significant ones, presents a risk that the Authority may be seen as lacking the capacity to effectively hold the Police to account.
46. If a large or major complaint requiring a substantial investigation arises, currently the Authority must seek additional funding from the Government or decline or delay other high-priority work. This creates a perception that in the performance of its functions the Authority is not independent of government. The Authority believes that this risk should be managed by ensuring that in future it carries sufficient reserves on its balance sheet to cater for such unexpected demands.
47. However, it would remain the case, and rightly so, that the Police would undertake the majority of investigations rather than the Authority. If that process is to be robust the Authority needs to maintain oversight of Police investigative practices and maintain regular contact with complainants. It also needs to scrutinise its complaint handling and triaging processes to mitigate the risk outlined above and enhance complainants' satisfaction with the Authority's processes. To that end, the Authority intends to look for ways that it can:

- Clarify at an early stage what a complainant wishes to achieve and what, if any, form of redress is appropriate.
- Identify more clearly with Police the key aspects of a complaint that need to be addressed by Police, at the outset of a complaint.
- Maintain regular contact with complainants about the progress of their complaint and what they can expect if their case is being investigated by Police, rather than the Authority.

THE NEED TO ALLOCATE RESOURCES TO PREVENTION WORK

48. As noted earlier the Authority is working with Police to enhance policy, practice and procedure to ensure that lessons learned from the Authority's work are incorporated into Police training.
49. The Authority considers its work on prevention essential in terms of its effectiveness.
50. Increasing the emphasis on prevention, rather than blame, has the potential over time to reduce the number of complaints received by the Authority. It would also reduce the operational burden on Police in investigating complaints. It therefore has the potential to reduce the resources required by the Authority and Police to deal with complaints. In order to get to that stage, substantial resources need to be invested by the Authority in the work it does with Police to ensure that lessons learned from the Authority's work are properly embedded into Police policy, practice and procedure in future.
51. However, as noted above the Authority is already stretched in completing its current work in a more timely manner and expects additional work as a result of the increase in the number of complaints it is receiving. In order to undertake this important new function, additional funding would be required.

Budget

DETERIORATING FINANCIAL POSITION

52. The Authority has had an operating deficit for the past three financial years, which has been funded from its accumulated reserves. Moreover, relocation to the Authority's new premises has resulted in a number of substantial one-off costs. As a result there is significant pressure on the Authority's cash flow in 2014/15.
53. The Authority is anticipating its cash reserves at the end of the financial year will be \$322,714.00, the lowest level regarded by the Ministry of Justice as acceptable. It is expecting its tightest time will be 28 February 2015 when its cash reserves fall to just \$289,000.00.

54. The Authority has been working with the Ministry of Justice to address the risks associated with this. Tight financial controls are in place to ensure the Authority has sufficient cash reserves throughout the year. The Authority is providing monthly financial reports to the Board and the Ministry of Justice to ensure they are able to scrutinise the Authority's financial position. The Authority will also alert the Ministry of Justice if any unexpected event or cost arises during the year that will put the Authority's financial viability at risk.
55. Because of the Authority's financial position the Ministry of Justice commissioned PricewaterhouseCoopers (PwC) to undertake an independent financial assessment of the Authority. PwC concluded that there has been deterioration in the IPCA's financial position which could potentially leave the IPCA financially exposed, particularly in 2014/15. The IPCA could be exposed should any one of the following occur:
- the IPCA is asked to undertake a large investigation with significant unbudgeted costs (the number, nature and costs of investigations vary from year to year and cannot be foreseen), or
 - the IPCA is unable to build up its cash reserves in sufficient time to an appropriate level.
56. As noted above the Authority believes that it should have sufficient reserves to enable it to undertake a substantial and resource intensive investigation without jeopardising its on-going high-priority work. Without such reserves, the Authority will continue to be dependent (as has been the case in the past) on one-off allocations of funding which gives rise to the perception that the Authority is beholden to the government when making decisions on whether and how to investigate a particular case.
57. As noted in previous sections the Authority also needs additional resources if it is going to focus on its work around prevention, which would complement the Police 'Prevention First' philosophy.

Governance and management

IPCA BOARD

58. The Authority’s Board has a full-time Chair and two part-time members. Including the Chair, the Board may comprise up to five members. The current Authority Board members are:

Name	Date of original appointment	Expiry date of present term
Judge Sir David Carruthers	16 April 2012	15 April 2017
Angela Hauk-Willis*	1 September 2010	31 August 2013
Dianne Macaskill*	1 September 2010	31 August 2013
		*1 – 2 day per month

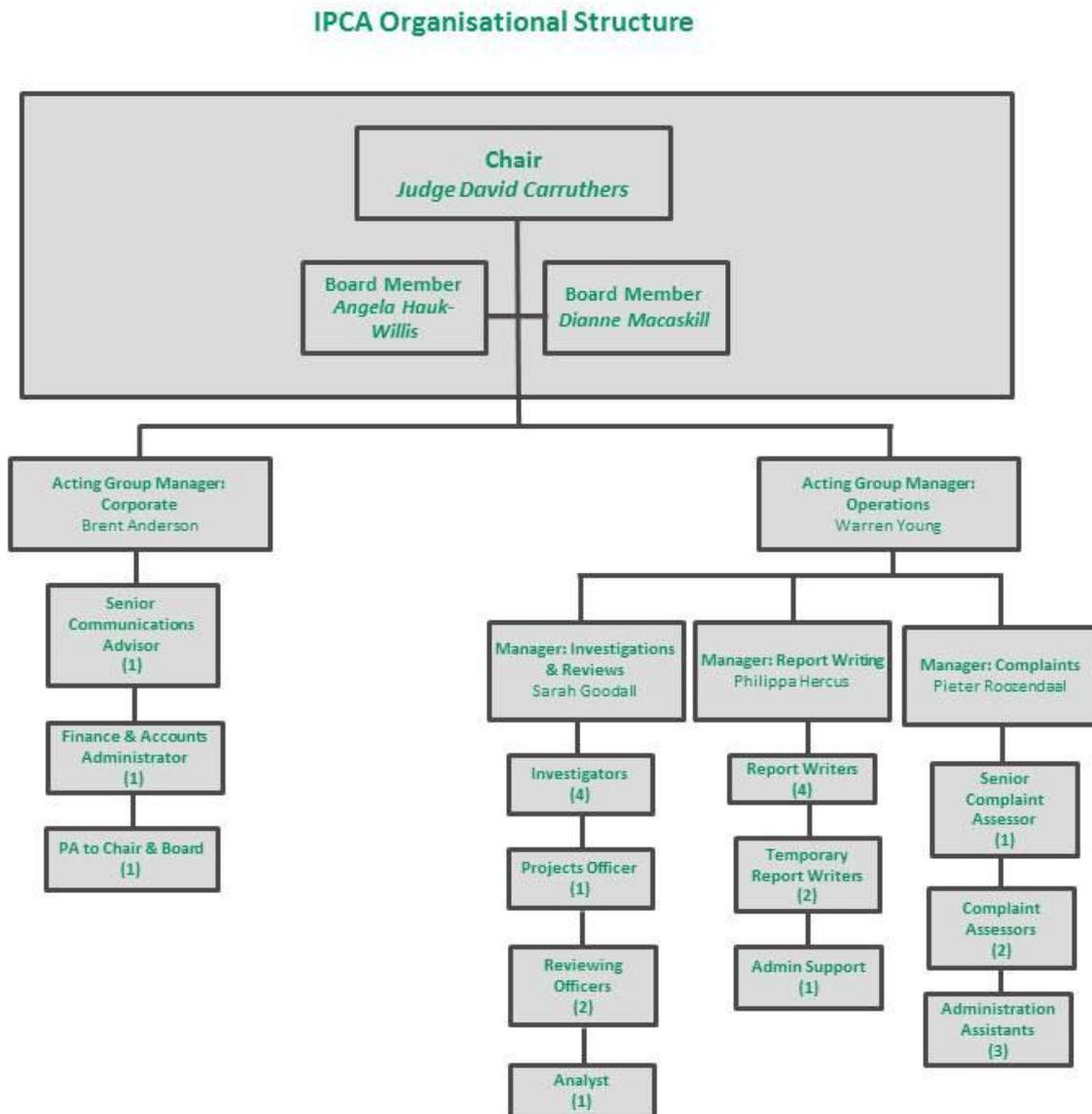
Note: Although the part-time Board members terms have expired the statute allows for appointments to roll-on until members are replaced or reappointed

59. Authority Board members have a range of relevant skills and experience including knowledge of the law and law enforcement, executive-level management, and public sector expertise. The Board meets monthly and focuses on three key issues in regard to its governance functions: setting strategic direction and high level policy; assessing the effectiveness of the Authority’s delivery of services against its strategic objectives; and monitoring the extent to which the requirements of relevant legislation and public expectations are met.

60. In regard to the day-to-day management of the Authority, the full-time chair discharges a range of executive functions and is supported by an organisational structure that prioritises available resources toward the efficient and effective delivery of operational services.

IPCA MANAGEMENT AND STAFF

61. The Authority has 28 individual staff excluding the two Board members (25.2 full-time equivalents) with a mix of permanent (22.6 full-time equivalents) and fixed term (2.6 full-time equivalents).
62. The organisational structure is pictured below:





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