

# **INDEPENDENT POLICE CONDUCT AUTHORITY**

**Briefing to Incoming Minister  
2017 General Election**

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## The Authority at a glance

1. The Authority is an independent agency which oversees the conduct of the New Zealand Police. This enhances public trust and confidence in the integrity and professionalism of Police.
2. We are most effective in achieving our core purpose when our 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

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	<b>2016-17</b> (subject to audit)
Revenue from the Crown	\$4,111,000
Total income	\$4,153,718
Total expenditure	\$3,941,857
Total number of complaints/referrals received	2,614
Number of complaints/referrals independently investigated by the Authority (category 1)	61 (3%)
Number of Police investigations from complaints/referrals actively overseen by the Authority (category 2)	192 (8%)
Number of Police investigations from complaints/referrals reviewed by the Authority at their conclusion (Category 3) <sup>1</sup>	21 (1%)
Number of complaints/referrals referred to Police for resolution by mutual agreement with complainant (category 4)	754 (34%)
Number of complaints/referrals declined (Category 5)	1190 (54%)
Number of public reports released	33
Number of FTEs	27.1

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<sup>1</sup> The use of this category was phased out during 2016/17.

## Functions of the Authority

3. The Authority is established under the Independent Police Conduct Authority Act 1988 (IPCA Act). It is an Independent Crown Entity under the Crown Entities Act 2003. 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.
4. Additionally, a Memorandum of Understanding with the Police provides that Police should refer the Authority matters of Police conduct that present reputational risk to the Police, including serious offending or corrupt behaviour by a Police officer, even though there has been no complaint.
5. Section 17 of the IPCA Act provides various ways in which the Authority may deal with complaints: investigate the complaint itself; refer it to the Police for investigation under the Authority's oversight; facilitate a resolution of the complaint by the Police; defer action; or take no action in terms of section 18 of the Act.
6. The Authority does not have the power to instigate its own investigation on any matter that does not involve death or serious bodily injury. Nor is it able to prosecute or take disciplinary action against any member of Police. Instead the Authority makes recommendations to Police which may include that disciplinary or criminal proceedings be considered or instituted.
7. 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)

8. Separately, 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. There are 437 custodial facilities where detainees are being managed by the Police.

## The Authority is independent of Police

9. Our credibility as an oversight body depends upon not only actual but perceived independence. A perception of alignment with Police will not engender public trust and confidence in either the Authority or Police. At the same time, our ability to produce outcomes that are seen to be fair, and to influence Police policy, practice and procedure, depends upon effective working relationships with the Police. Independence does not necessarily mean distance. A delicate balance must be struck between these competing requirements.
10. We strive to ensure that we have a cooperative and consultative relationship with Police throughout the country, whilst always being clear that our findings and recommendations are independent.
11. In order to increase public understanding of the Authority's independence, and therefore the volume and effectiveness of our work, we have been working hard over the past few years to increase the transparency in and visibility of our work. To that end, we have changed our public reporting approach. Unless there is an overriding private interest in maintaining confidentiality, we publish the findings of all independent investigations. We also actively issue media releases in order to draw the public's attention to issues we report on. Following the current revision of our website we will publish summaries of examples of our other work in reviewing Police investigations and facilitating alternative resolutions.
12. These changes have enhanced the recognition of the role of the Authority and may have contributed to the increase in the number of complaints.

## Governance and management

### IPCA BOARD

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13. 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:

<b>Name</b>	<b>Date of original appointment</b>	<b>Expiry date of present term</b>
Judge Colin Doherty	31 August 2017	30 August 2022
Simon Murdoch*	24 September 2015	23 September 2018
Dianne Macaskill*	1 September 2010 reappointed 24 September 2015	23 September 2018

\*1 – 2 day per month

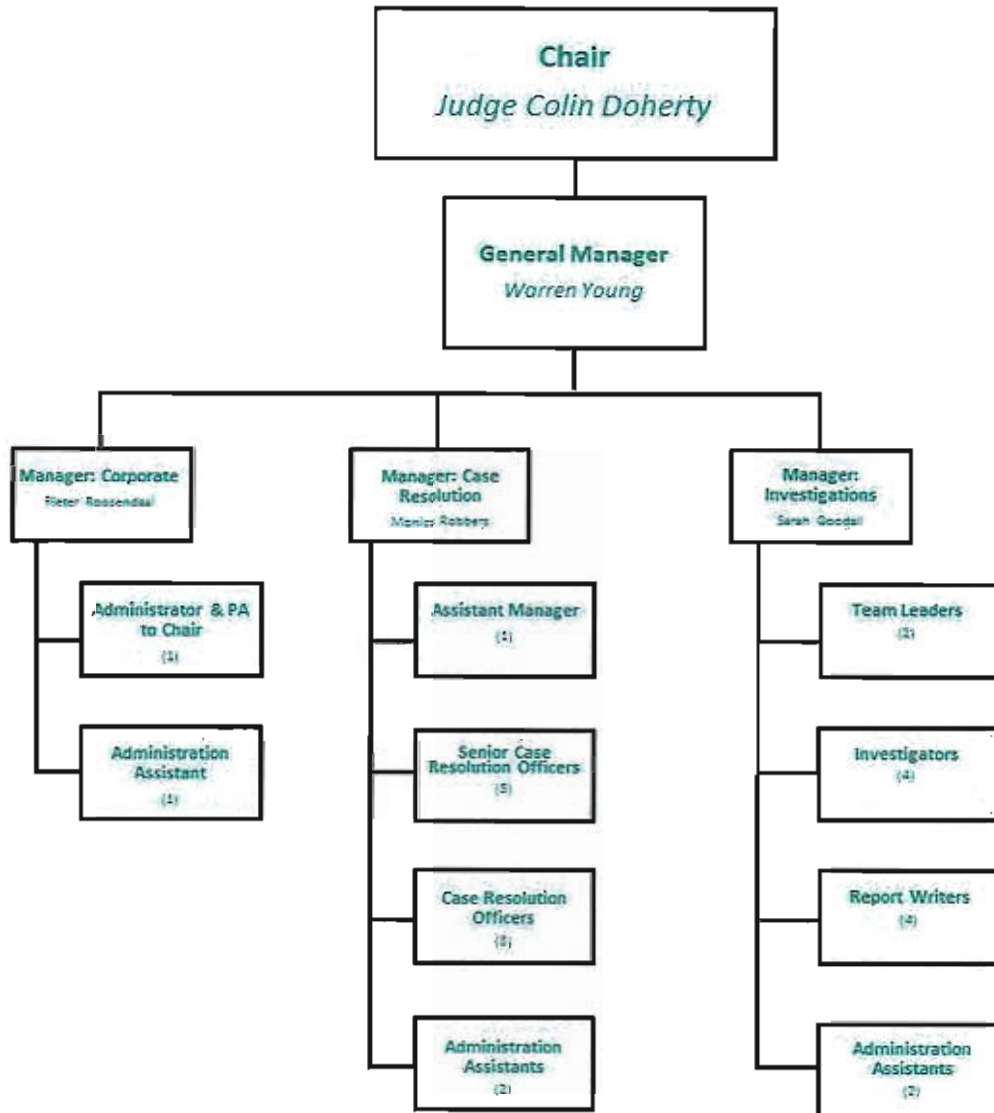
14. Authority Board members have a range of relevant skills and experience including knowledge of the law and law enforcement, executive-level management, and public sector expertise. The Board meets monthly and focuses on three key issues in regard to its governance functions: setting strategic direction 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.
15. 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

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16. The Authority has 30 individual staff excluding the two Board members (27.8 full-time equivalents) with a mix of permanent (25.8 full-time equivalents) and fixed term (2.0 full-time equivalents).
17. The organisational structure is pictured below:

# IPCA Organisation Structure



## How the Authority operates

18. During 2016/17, the Authority received 2614 complaints or Police referrals (generically described as 'complaints') relating to allegations of Police misconduct, an increase of 7% over the previous year. The increase in numbers was consistent with the trend established over the last five 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 10 per cent increase in the 2017/18 financial year, placing a further and significant strain on the Authority's resources.
19. Once a complaint is received by the Authority a request for information is usually lodged with Police so that any relevant information held by Police is made available to the Authority.
20. On receipt of that information the Authority categorises the complaint according to the level of seriousness. The categories to which cases are assigned are described in detail in the latest Annual Report accompanying this briefing.
21. In order to improve both the timeliness of resolving complaints and the quality of outcomes, the Authority introduced new triaging processes in January 2017.
22. The new processes involve two major changes. First, at the outset time is taken to obtain initial information about the incident and to discuss with the Police how the complaint can best be resolved. As a result, cases are more often able to be resolved in a timely way through appropriate redress to the complainant without significant, resource-intensive and lengthy investigations. This may take a variety of forms, including an apology to the complainant, compensation, return of property, the re-instigation of an investigation of a criminal complaint, or a performance conversation with the officers complained about. About 38 per cent of cases were placed into this category during the 2016/17 financial year.
23. Secondly, where a matter is referred back to the Police for an investigation because it does not meet the criteria for an independent investigation by the Authority, it is now always actively overseen by the Authority from the outset. Discussions are held between the Authority and the Police investigating officer within a designated time to discuss and agree on the issues requiring investigation; all material gathered during the investigation is actively reviewed by the Authority as it is generated; issues are discussed with the investigating officer when they arise; and any concerns that the Authority has with the direction of an investigation are raised with Police at the appropriate level as soon as they become known. The Authority therefore has a systematic and continual process for ensuring that Police investigations are robust and have an appropriate outcome.
24. As a consequence of these fundamental changes to the way in which complaints are dealt with, the Police and the Authority have jointly reviewed the way in which we each record the outcomes of complaints, so that there is a more uniform, accurate and informative measure of the actions that have been taken in response to them. This will require the Authority to invest in a new case management system with a more robust data framework that will permit more



sophisticated data analytics than is currently possible. Funding in support of this is being sought in Budget 2018.

## RECENT AUTHORITY ACHIEVEMENTS

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25. The current focus is on achieving greater effectiveness and efficiency in achieving our core purpose. We have made substantial improvements to our operational process and the quality of our outputs over the past 18 months. These include:

- a more effective and timely process for dealing with complaints, with new performance measures introduced in the Authority's 2017/18 Statement of Performance Expectations;
- more effective liaison with Police, especially in facilitating the resolution of complaints;
- early identification and communication of issues affecting Police practice, policy and procedure;
- greater use of thematic reviews directed towards specific Police policies identified in investigations as requiring reform, for example the Police fleeing driver policy.

## OVERVIEW OF COMPLAINT TYPE

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The most commonly recorded complaints during 2016/17 typically related to allegations of an 'inadequate service' provided to the complainant or a failure during the process of Police investigation. Those two complaint types together accounted for approximately 20% of all complaints while the third most common complaint (an officer's attitude or language used) accounted for 9% of complaints. More details regarding complaints, including an explanation of the complaint categories used by the Authority and a comparison summary of total complaints by Police District can be found on pages 9 to 12 of the Authority's Annual Report that accompanies this briefing document.

## Strategic priorities

26. We will continue to implement identified strategies to enhance the quality, efficiency and efficacy of our work. These include:

- embedding and enhancing our processes for the facilitated resolution of cases to produce better and more timely outcomes;
- ensuring focused and proportionate investigations and reporting of them;
- increasing the emphasis on prevention of complaints through enhanced data analysis and identification of common themes and issues between complaints;
- encouraging Police to use 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;
- reporting publicly on the results of all of our work in a more systematic way;
- expanding and improving the effectiveness of our work in inspecting and monitoring Police places of detention; and
- enhancing our engagement with the community and increasing public awareness of the Authority’s role and functions with a focus on the expanding use of social media.

27. Three aspects of these strategic priorities deserve more detailed mention.

### INCREASING THE EMPHASIS ON PREVENTION

28. 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. There are two components to this work.

29. First, we promote the cases that we investigate and review as case studies that can be used in Police training at a range of levels (from Police recruits to specialist squads and supervising officers). We also work with Police to identify the lessons that can be learned from individual cases so that these can be communicated to Police through the Police ‘Lessons Learned’ database and the Bulletin Board, an internal Police system. This allows individual Police staff to reflect on incidents that have come to the attention of the Authority and learn the appropriate lessons from them.

30. Secondly, where individual cases point to more general systemic or policy issues needing to be addressed, we undertake “thematic reviews” and make appropriate recommendations to Police in order to prevent the issues from recurring.

31. Two examples of such thematic work that resulted in publications during 2016/17 were our review of the use of pre-charge warnings and our joint review with the Office of the Privacy Commissioner of Police vetting procedures. Both have led to ongoing Police projects to change policy and enhance the consistency of practice in these areas.

32. We are currently reviewing a range of other policy and practice issues. These include:

- the management of property seized by Police (which is often being unlawfully retained or wrongfully disposed of because of poor property handling procedures);
- issues and challenges in the policing of small communities;
- Police pursuits of fleeing drivers; and
- controls by Police over the availability and use of firearms.

33. We believe that the effectiveness of our work should be judged not merely by whether we are effectively holding Police to account when things go wrong, but by whether we are successfully preventing such incidents in the first place. Thematic reviews are therefore a core component of our work in improving policing in the future. However, our ability to undertake this work has been affected by our limited resources and the pressure of the steady increase in the volume and complexity of complaints.

#### ENHANCING OUR ENGAGEMENT WITH THE COMMUNITY

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34. We have identified that members of the public are increasingly using the Authority's website as the means for finding more information about the Authority, accessing public reports that have been issued and also particularly for the purposes of making complaints against Police. We estimate that 90% of complaints made to us directly by a complainant are now being received electronically, either by use of the online complaint form or simply by the use of emails with attachments if required.
35. In view of the increasing use of the website and online complaint process, particularly by people using mobile devices such as smartphones and tablets, we are presently revamping and updating these services to make them more accessible and mobile friendly. This includes using easy-English to provide simple explanations of our services and how best to access these. Also, in recognition of the increasing ethnic diversity of the community we serve, we are working to provide this guidance and assistance in a range of common languages.
36. We regard it extremely important for the public to understand our role and particularly the independent nature of it. In order to dispel some of the common misconceptions of our work and our relationship with Police, we are proposing to expand the Authority's public profile with the increased use of social media platforms. While there are known risks in using platforms like Facebook and Twitter, these are accepted and we feel that the benefits outweigh the risks. The negative effects of (for example) providing a forum for venting discontent can be largely mitigated with the application of appropriate resources and the use of simple, factual explanations in response.
37. We are aiming to develop a social media strategy for implementation by the end of this financial year.

#### MONITORING AND IMPROVING POLICE PLACES OF DETENTION

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38. Our work in monitoring Police places of detention as a National Preventive Mechanism has been substantially changed over the last three years to enhance its effectiveness and efficiency. Our new procedures for undertaking this work are still under development. Our guiding approach has been that it is important to involve the Police themselves in what we do, so that they "own" the problems that are identified and take responsibility for finding the solution.
39. To that end, a key component of the work is a joint audit by Police and the Authority of the Electronic Custody Module record in a random sample of individual cases from individual custody units, undertaken quarterly on a rolling District by District basis. We have just

completed the first full District audit, and will be following up with the particular District on issues that have been identified.

40. We also identify systemic issues arising from individual cases and incidents, and where required we visit the relevant custody unit to discuss these with supervisors and to agree on the actions required to address them.
41. We have also worked with Police, the Ministry of Justice and the Department of Corrections at head office level to address issues relating to court cells, prisoners on remand in Police cells, and young persons in Police cells.
42. However, our ability to fulfil our statutory obligations in this area has been substantially constrained by the minimal appropriation (\$55,000) that has been given to the Authority for this purpose. In particular, we have not been able to undertake the number of visits to Police custodial facilities that is required to meet international expectations.

Withheld under  
section 9(2)(g)(i)

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