



Performance audit report

Response of the
New Zealand
Police to the
Commission of
Inquiry into Police
Conduct: Second
monitoring report





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Response of the New Zealand Police to the Commission of Inquiry into Police Conduct: Second monitoring report

This is the report of a performance
audit we carried out under section
16 of the Public Audit Act 2001

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Overview

In 2007, the Commission of Inquiry into Police Conduct (the Commission) released its report. The report criticised the historical conduct, including sexual conduct, of some police officers and their associates.

This is our Office's second report about how well the New Zealand Police (the Police) are responding to the Commission's recommendations. Our first monitoring report found that the Police had responded in a committed manner to the Commission's findings, and had put in place a comprehensive work programme to begin to give effect to the Commission's recommendations. This second monitoring report assesses whether the Police have effectively implemented the projects and initiatives in that work programme.

Our third monitoring report in 2012 will assess what sustainable improvements in policing have resulted from the Police's implementation of that work programme.

The implementation of the Police's response is at a critical point. Without more concerted effort now, there is a risk that progress will stall, the achievements of the Police's change programme to date will dissipate, and the benefits of change will not be realised. There is also a risk that progress will not be achieved on an ongoing basis. The benefits of change include the public having confidence in the integrity and conduct of the Police. Public confidence is essential for effective policing.

An appropriate culture is fundamental to achieving the necessary changes. The Police need to continue to observe, reflect on, and critique the cultural changes they are making.

In our view, the Police need to make four important changes. They need to:

- build on the high degree of commitment at senior levels to change, and ensure that all staff understand and support the need for change within the Police;
- further value and learn from the views of people external to the Police;
- monitor the service effects of the changes they are making; and
- improve the behaviour of the relatively small number of police officers whose behaviour is inconsistent with the Code of Conduct, including instances of sexually inappropriate behaviour.

These four changes form the first four and the most important of our 13 recommendations.

The Police have done a lot of work already. They have implemented a Code of Conduct, conducted nationally consistent ethics training for almost all staff, dealt with inappropriate email and Internet usage, and significantly improved performance appraisal completion rates. But there is still much to do – the

Commission's recommendations will not be implemented just because new systems and processes are in place. They will be implemented when those new systems and processes are in place, supported, used properly, monitored (and adjusted, if necessary), and are producing the required effect. Effective implementation will stand or fall on whether the Police embed the necessary cultural changes.

The new systems and processes will be able to achieve the required effect when the Police have a critical mass of police officers who understand and support the need for change. That cultural change, in my view, would have to include no tolerance of any sexually inappropriate behaviour by police officers. Effective performance management is an important tool the Police can use to help reinforce and embed the necessary cultural changes.

During the course of our work on this report, a new Auditor-General, Lyn Provost, was appointed. Lyn was previously a Deputy Commissioner of Police. Lyn has complied with our Office's conflict of interest policy. Since joining our Office she has had absolutely no involvement in, or influence over, any of our work on the New Zealand Police, including this report. I, as the Deputy Auditor-General with the same powers and functions as the Auditor-General, have overseen this work.

I would like to thank the staff in the Police and other organisations, including members of Te Ohaaki a Hine – National Network for Ending Sexual Violence Together – and the New Zealand Police Association, for the assistance they provided during this audit. In particular, I would like to thank the Police's two liaison staff for the prompt and professional assistance provided.



Phillippa Smith
Deputy Controller and Auditor-General

18 June 2010

Our recommendations

Managing change, including cultural change

Having the public's trust and confidence is critical for effective policing. To gain and retain that trust and confidence, it is important that the New Zealand Police:

- build on the high degree of commitment at senior levels to change, and ensure that all staff understand and support the need for change within the Police;
- further value and learn from the views of people external to the Police;
- monitor the service effects of the changes they are making; and
- improve the behaviour of the relatively small number of police officers whose behaviour is inconsistent with the Code of Conduct, including instances of sexually inappropriate behaviour.

We make four recommendations to help the New Zealand Police to manage the shift in their organisational culture that is necessary to fully implement the Commission's recommendations.

We recommend that the New Zealand Police:

1. support and develop leaders', supervisors', and managers' capability to influence and persuade colleagues about the importance of and need for change, so that individual police officers better understand the benefits to them and the public of effectively implementing the recommendations of the Commission of Inquiry into Police Conduct and broaden their understanding of how important public confidence is to effective policing;
2. further value and use external views on Police culture and behaviour by, for example, involving more external people in ethics committees, obtaining more feedback on police officers' behaviour and service delivery through community engagement, and learning more from complaints information;
3. put in place monitoring arrangements to track the changes in service delivery resulting from implementing the recommendations of the Commission of Inquiry into Police Conduct. In particular, track improvements in complainants' experiences in dealing with the Police on complaints of adult sexual assault or police misconduct, improvements in community engagement and feedback on the Police's service delivery, and improvements in leadership and guidance on ethical issues within the Police; and
4. foster a workplace culture that does not tolerate any sexually inappropriate behaviour by police officers by:
 - enhancing supervisors' and managers' capability to discourage such behaviour and take the necessary disciplinary action when it does occur; and
 - regularly tracking, analysing, and responding to trends in the incidence of such behaviour.

Implementing the Commission's recommendations

We have made a further nine recommendations to help the New Zealand Police make better progress with implementing specific recommendations made by the Commission of Inquiry into Police Conduct.

We recommend that the New Zealand Police:

5. implement plans for improving the information available to members of the public, including their rights and the process to follow when reporting inappropriate behaviour by police officers (*to progress the Commission's recommendation R6*);
6. start to fully use the early warning functionality of the electronic complaints recording system (IAPro) as soon as practicable, at both national and district levels, so that any inappropriate behaviour and resistance to change is regularly and systematically identified and followed up (*to progress the Commission's recommendation R8*);
7. give enough attention and priority to monitoring and auditing of adult sexual assault investigations to ensure that all of these investigations fully comply with the Adult Sexual Assault Investigation Guidelines (*to progress the Commission's recommendation R9*);
8. conduct additional independent assessments of the implementation of the Adult Sexual Assault Investigation Guidelines, to clarify whether complainants receive a consistent level of service (including when their complaint is first received) and whether the training and resources necessary to effectively implement the Investigation Guidelines are in place (*to progress the Commission's recommendation R9*);
9. regularly assess whether adult sexual assault complainants are kept well informed during the Police's investigation of their complaints (*to progress the Commission's recommendation R15*);
10. devise an approach for ongoing skills development in adult sexual assault investigations beyond the life of the current adult sexual assault investigation training course (*to progress the Commission's recommendation R18*);
11. increase the capability of supervisors and managers to effectively operate the performance management, improvement, and appraisal systems and, in particular, the capability of supervisors and managers to conduct meaningful performance appraisals (*to progress the Commission's recommendation R49*);
12. have enough monitoring requirements in the Report and Be Protected (Safe Reporting) Policy or other documents to ensure that full and proper inquiry is always made where information received indicates that a police member or associate may have committed a sexual offence (*to progress the Commission's recommendation R52*); and

13. add “failure to report wrongdoing by a fellow police officer” as an example of misconduct and/or serious misconduct when next amending the Code of Conduct (*to progress the Commission’s recommendation R55*).

Other actions

As well as these recommendations, within the body of the report we have also identified several actions that we encourage the Police to take. These include, but are not limited to, actions to progress the Commission’s recommendations R11 and R35.

Part 1

Our conclusions

- 1.1 In this Part, we briefly set out:
- background information about the Commission of Inquiry into Police Conduct (the Commission) and our monitoring work;
 - challenges to making necessary cultural changes;
 - the benefits to the New Zealand Police (the Police) of fully implementing the Commission’s recommendations;
 - our expectations of the Police’s change process;
 - what the Police have changed so far;
 - what the Police still need to do; and
 - what we will do next in our monitoring role.
- 1.2 This Part sets out the most important aspect of our findings – our overall conclusions about the approach the Police have taken, the type of progress the Police have made, and the risks to the Police of not achieving the outcomes that the Commission sought when making its recommendations.
- 1.3 This is the second in a series of monitoring reports, setting out the progress the Police are making as they work toward giving full effect to the Commission’s recommendations. Readers unfamiliar with the background to this report might find it helpful to refer to our first monitoring report, *Response of the New Zealand Police to the Commission of Inquiry into Police Conduct: First monitoring report*, which is available on our website (www.oag.govt.nz).
- 1.4 More detailed information, about how and why we are monitoring the progress of the Police with the Commission’s recommendations, and our expectations of the Police, is set out in the appendices to this report.

Background

The Commission of Inquiry into Police Conduct

- 1.5 The Commission released its report in 2007. The report criticised the historical conduct of some police officers and their associates. The conduct included inappropriate sexual activity and a culture of scepticism in dealing with complaints to the Police about adult sexual assault.
- 1.6 The Commission’s findings included 60 recommendations. Most were for the Police, but some were for the then Police Complaints Authority (now the Independent Police Conduct Authority) and the State Services Commission.
- 1.7 The Commission’s report was clear that the attitudes and behaviours within the Police, and not just the systems and procedures, needed to change.

- 1.8 Bringing about changes to the attitudes and behaviours that are valued in an organisation can be difficult and usually takes a long time. The Commission recognised this, and recommended that we monitor the Police's progress for 10 years. The Government at the time invited the Auditor-General to carry out the monitoring role, and the Auditor-General accepted the Government's invitation.

The Police's response to the Commission of Inquiry

- 1.9 Our first monitoring report was published in June 2009. At the time, the Police had responded in a committed manner to the Commission's findings and were designing the next phase of their work programme. The Police described the next phase in responding to the Commission's findings as an "implementation" phase.
- 1.10 In this second monitoring report, we assess the Police's progress with their change programme, including the effectiveness of the changes they have made.

Challenges to making the necessary cultural changes

- 1.11 In our first monitoring report, we said that the Police would need to ensure that their implementation phase fully involved staff throughout all levels of the Police. The Police needed their staff, particularly those in management and supervisory roles, to:
- use new systems and processes;
 - understand and support why these new systems and processes are necessary;
 - understand and demonstrate appropriate Police behaviour;
 - be willing and able to identify and report inappropriate Police behaviour; and
 - encourage and support colleagues to follow these same practices and demonstrate these same behaviours.
- 1.12 In our view, the Police need to continue to observe, reflect on, and critique the cultural changes they are making. Valuing their own and outsiders' views on such progress is one of the important cultural changes the Police need to make.

A challenging environment

- 1.13 The environment in which the Police operate presents particular challenges to changing the culture of the organisation. Characteristics of this environment include:
- a widely dispersed organisation that provides services 24 hours a day, seven days a week, to the whole country;
 - a devolved management structure in 12 Police districts;
 - a high level of discretion resting with individual police officers;

- a high degree of political and public scrutiny; and
- fiscal constraints and multiple priorities.

Fiscal constraints and multiple priorities

- 1.14 The Police told us that, since our first monitoring report, demands in addition to implementing the Commission's recommendations have been placed on the Police. We were told that these demands required a complicated management focus in the context of:
- recessionary conditions;
 - completing a growth strategy, including recruitment and training of additional staff; and
 - a change of Government, with a full law and order programme.
- 1.15 We appreciate that the state sector is currently under considerable financial restraint, and that there may be pressure to reduce or use for other priorities the resources allocated to implementing the Commission's recommendations. Despite these fiscal constraints and multiple priorities, we would be surprised if it were not among the Police's highest priorities to ensure that adult sexual assault complaints and complaints against the Police are investigated properly, and that the Police are behaving appropriately.

Benefits of fully implementing the recommendations of the Commission of Inquiry into Police Conduct

Improved services for the public

- 1.16 The Commission's recommendations aimed to improve the services the Police provide to the public – in particular, how the Police receive and investigate complaints against police officers, and adult sexual assault complaints.
- 1.17 In our view, if the Commission's recommendations are fully implemented, the public could have confidence that:
- complaints of adult sexual assault are properly received and investigated;
 - complaints against the Police are investigated openly and fully by the Police, and information is reported back to the complainant; and
 - the Police know what appropriate behaviour is, and take prompt and appropriate action when staff behave inappropriately.
- 1.18 If the Commission's recommendations are not fully implemented, there is a risk that some victims may be denied justice, some types of crime may be perpetuated, and aspects of the Police's service delivery may be of a poor quality.

Better support for the Police

- 1.19 Full implementation of the Commission's recommendations will also benefit the Police by reducing the potential for police officers to let the Police down and negatively affect the reputation and integrity of the Police. This is important because the public's co-operation and trust is essential for the Police to be effective. As the Police have noted:

... integrity and the public's perception of integrity are the cornerstone of providing unbiased and effective policing.¹

- 1.20 Even relatively minor instances of inappropriate behaviour by police officers can undermine confidence in the Police. One of the Police's district policies states that:

... even small transgressions can seriously damage the reputation and standing of Police to a disproportionate level.²

- 1.21 In turn, public confidence and willingness to work with the Police can be affected, which can make the Police's already difficult job harder.

Our expectations of the change process

The Commission's recommendations

- 1.22 We carried out a performance audit to assess whether the Police have effectively implemented their work programme for responding to the Commission's findings. This involved assessing the Police's progress against our expectations for each of the Commission's recommendations. Appendix 1 sets out our expectations for each of the Commission's recommendations, as agreed with the Police.
- 1.23 Appendix 2 provides more detailed information about how and why we carried out our performance audit.

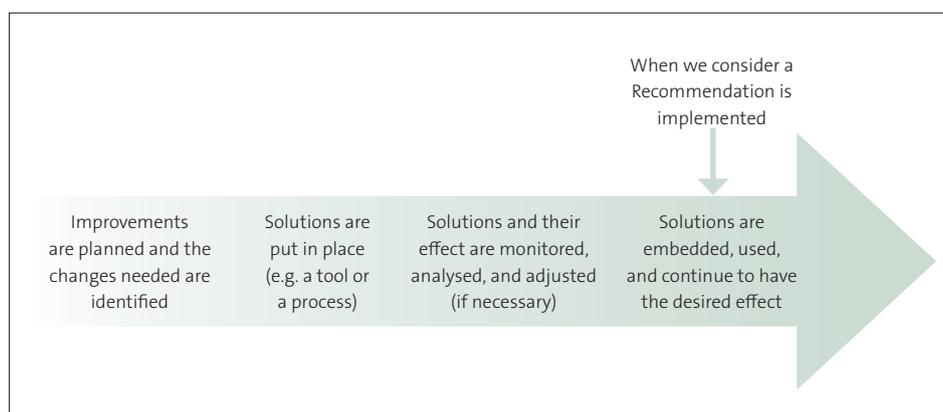
Activities and effectiveness

- 1.24 In our view, the implementation of the Commission's recommendations is not complete until a policy, procedure, system or practice that is required to be prepared is in place, adhered to, functioning as intended, and matches a recommendation's purpose. That is, the necessary activities have taken place and the Police know that those activities have had, or will have, the intended effect (see Figure 1). We acknowledge that the full effect may not be immediately apparent in some instances.

1 See www.police.govt.nz/about/commission-inquiry.html.

2 Canterbury District Order # 10: Early Interventions Policy.

Figure 1
Implementing a change programme



- 1.25 In our view, considering a recommendation to be fully complete when all of the planned activities have taken place reflects a compliance or “tick box” approach rather than an improvement approach. We do not support a compliance approach for implementing the Commission’s recommendations.
- 1.26 We expect the Police, as part of their change programme, to track the activities they have carried out and the effect of these activities. We also expect the Police to compare the effect of the changes they make against the improvement purpose of the Commission’s recommendations.

What the New Zealand Police have changed so far

Some good work done

- 1.27 The Police have achieved much already, including implementing a new Code of Conduct and disciplinary system, consolidating corporate policies and procedures, implementing extensive training in adult sexual assault investigation, improving the completion rates of performance appraisals to high levels, and having and enforcing clear expectations about the use of information technology.
- 1.28 During our performance audit work, we also saw examples of committed and professional police officers and other employees working hard to uphold the integrity of the Police. The strong leadership and innovation being shown by some staff – police officers and other employees – is an important catalyst for change within the Police.

From implementation to business as usual

- 1.29 Since we reported on the Police's change programme in our first monitoring report, they have moved management of the programme to "business as usual". This means the governance and management of the Police response to the Commission's recommendations occurs through the same accountability and reporting lines as the Police use for their other work, but with some ongoing reporting of progress to the Police Executive.
- 1.30 The approach the Police have taken is consistent with the advice they have received from the State Services Commissioner.

Progress is at a critical stage

- 1.31 In our view, the implementation of the Police's change programme is at a critical stage because of:
- the length of time that it can take to achieve effective cultural change, and the vulnerability of cultural changes;
 - the Police's assessment that they have completed many of the Commission's recommendations when, in our view, there is work to be done to reliably embed the changes; and
 - the Police's limited monitoring of the effect on service delivery of the activities they are carrying out, or have carried out, in response to the Commission's recommendations.
- 1.32 Without more concerted effort now, there is a risk that the achievements of the change programme to date may not be maintained, and a risk that the necessary changes to Police culture will not be achieved.

Specific progress to date

- 1.33 Although the Police have done a lot of work already, there is still much to do. The amount of work remaining to be done should not be underestimated, especially given the long time effective cultural change can take.
- 1.34 We have examined the Police's progress against each of the Commission's recommendations. Part 2 sets out our detailed assessment of their progress.

- 1.35 Overall, we have assessed that the Police have fully implemented seven of the Commission's 47 recommendations for the Police. This is a significant achievement. The recommendations the Police have fully implemented are:
- enhancing their policy capability (recommendation R4);
 - having the Adult Sexual Assault Investigation Guidelines (the ASA Investigation Guidelines) accessible to staff (recommendation R10);
 - disestablishing the disciplinary tribunal system (recommendation R33);
 - implementing a Code of Conduct for all staff (recommendation R38);
 - amending the Sexual Harassment Policy (recommendation R39);
 - clarifying what is inappropriate email and Internet use (recommendation R41); and
 - consulting with and involving the State Services Commissioner to ensure that the Police's projects take account of best practice in the public sector (recommendation R59).
- 1.36 It would be unreasonable to expect the Police to have fully achieved all of the changes envisaged by the Commission in about three years, because of the magnitude of the work required.
- 1.37 Although the Police have fully implemented seven of the Commission's recommendations to date, they have made some progress in implementing all of the other 40 recommendations that we audited their progress against.
- 1.38 Although it is not possible to be definitive about the adequacy of the Police's progress to date, we expected the Police to have made more progress in tracking the service improvements arising as a result of their changes.

What the New Zealand Police need to do next

- 1.39 We have identified that there is still much for the Police to do to strengthen how they manage the change programme, particularly focusing on embedding cultural change. This includes better helping staff to understand why change is necessary and the benefits of change, valuing and using complaints information, monitoring the effect on service delivery of the changes they are making, and improving the behaviour of some police officers. There is also a range of actions the Police need to take to progress some of the Commission's specific recommendations. Collectively, these are the subjects of our 13 recommendations for the Police (see our recommendations section).

Help staff understand and support the need for change

- 1.40 Ideally, all police officers would support the changes recommended by the Commission because of the resulting improvements for the public and the benefits for the Police. However, there is a risk that some police officers view the Commission's changes as a compliance exercise, at best to be complied with or at worst to be resisted. The Police have told us that this is not surprising, given the number of Police staff. However, a compliance approach, without the necessary cultural change, will not ensure that the Commission's recommendations are fully implemented.
- 1.41 During the course of our audit, we saw evidence of potential pockets of reservation or resistance to enacting or complying with the Commission's recommendations. In our view, the Police still have further work to do to help some staff better understand and accept why change is necessary. This involves helping a critical mass of staff understand the benefits to the Police of the changes, including the difficulties of policing without public confidence and co-operation, and the improvements to aspects of Police service delivery that are necessary.
- 1.42 This work involves changing aspects of the organisation's culture, and requires strong leadership. We were impressed with the strong leadership and innovation shown by particular police officers. This is a good base on which to build further progress, and means that the Police should be able to encourage a sense of pride in providing a high standard of service to all New Zealanders.
- 1.43 When discussing the importance of the Commission's recommendations to the Police's service delivery, one of the police officers we interviewed said:
- What is our core business? Safety and accountability. Society needs that message – if you do a crime, or inappropriate activity with women and children, we're coming to see you.*

Value complaints information more, and actively use it

- 1.44 The Police told us that they use in their work the advice and input of a lot of external people. We accept that this is the case.
- 1.45 In our view, the Police need to be more receptive to outside scrutiny, particularly through receiving complaints, involving more external people in ethics committees, and obtaining more feedback about police behaviour and service delivery through community engagement. The information obtained through these means needs to be actively valued and used.

- 1.46 We acknowledge that relying on complaints and public opinion as a barometer of performance can be problematic in an organisation that can remove people's liberty. However, having the public's confidence is more critical for the Police to be able to perform their job than for most other organisations and professions. The content and nature of complaints can provide useful information about public confidence, and can also provide information about the changes occurring within the Police.

Monitor the effect of changes on service delivery

- 1.47 The Police need to understand the effect of the activities they have carried out, and are carrying out, in response to the Commission's recommendations. This requires some form of ongoing monitoring. We made recommendations about this in our first monitoring report.
- 1.48 We acknowledge that the Police have a number of surveys and reporting mechanisms in place that can be used to monitor change within the Police. These have a particular focus on staff engagement, complaints, and customer service. But the Police have not yet put in place effective monitoring mechanisms for monitoring the improvements to service delivery resulting from the changes they are making. For example, the Police are not tracking the improvements to service delivery that affect adult sexual assault complainants' experiences of dealing with the Police, improvements in community engagement and feedback on service delivery, or improvements in leadership and guidance on ethical issues within the Police.
- 1.49 Without appropriate monitoring of the effect of changes on service delivery, it is difficult for the Police or others to be sure that the changes put in place are complied with, that they are making the expected progress, or whether they have achieved the desired results. Being effective includes improved policing for New Zealanders and a better standard of service from the Police. Without appropriate monitoring, efforts may be wasted, opportunities may be missed, and resources may not be appropriately targeted.
- 1.50 Improved monitoring should also help the Police to provide more meaningful reports to Ministers and the public on their progress with implementing the Commission's recommendations. This includes being able to state with certainty whether the progress made has been effective and what that effect has been.

Improve behaviour

- 1.51 Although the Police have a relatively high level of public confidence, this can easily be undermined by incidents that reflect badly on the actual or perceived integrity of the Police. These incidents also have the potential to put the public at risk.

- 1.52 The Police disciplinary records that we viewed during our performance audit indicate that there are police officers still engaging in inappropriate behaviour of a sexual nature. Importantly, these records also showed that the Police have considered this behaviour to be inappropriate.
- 1.53 Ideally, there would be no inappropriate behaviour of a sexual nature by police officers. In our view, the Police need to foster a workplace culture that does not tolerate sexually inappropriate behaviour by police officers, and continue to respond decisively and immediately to this behaviour when it occurs.

Make progress to implement key recommendations

- 1.54 As well as the management and cultural issues we have discussed above, we have identified some important matters that the Police need to give further attention to, to progress their implementation of the Commission's recommendations. These are:
- better understanding the extent to which the ASA Investigation Guidelines are being implemented and better understanding of complainants' experiences with these ASA Investigation Guidelines;
 - using complaints information and making it easier for complainants to report allegations of inappropriate behaviour by police officers;
 - making full use of the proactive functionality in the Police's electronic complaints recording system to enable early identification of inappropriate police behaviour and potential pockets of reservation or resistance to change; and
 - improving operation of the Police's performance management and disciplinary system.
- 1.55 Other changes we encourage the Police to make are noted throughout Part 2.

What we will do next

- 1.56 We will continue to monitor the Police's progress with responding to the Commission's recommendations. We will report on the Police's progress with the recommendations from our first two monitoring reports through our annual follow-up reports for performance audits. We will report in 2011/12 on the Police's progress with the recommendations we made in our first (2009) monitoring report. We will report in 2012/13 on the Police's progress with our recommendations in this second (2010) monitoring report.
- 1.57 We intend to publish our third monitoring report on the Police's progress in 2011/12.

Part 2

Our detailed assessment

- 2.1 In this Part, we set out our assessment of the Police’s progress toward fully implementing each of the Commission’s applicable recommendations. The assessment is organised sequentially by recommendation number.
- 2.2 For each recommendation, we reproduce the wording of the Commission’s recommendations, describe the work that the Police have carried out in response, then set out a summary of our assessment.
- 2.3 Overall, we have assessed that the Police have fully implemented seven of the Commission’s 47 recommendations.

Commission of Inquiry’s recommendation R1

New Zealand Police should review and consolidate the numerous policies, instructions, and directives related to investigating complaints of misconduct against police officers, as well as those relating to the investigation of sexual assault allegations.

Our assessment: Not yet completed by the Police.

- 2.4 An independent review of the Police’s policy capability reported in 2006 that:
- Currently most groups within the Office of the Commissioner issue policy instructions and guidelines. Processes are somewhat ad hoc. There is no consistency of format and style. Sign-off arrangements differ. There is no consistent ongoing oversight of instructions and guidelines and as a result many are out of date. Instructions are not held in one place and are difficult to access by Police staff in the districts. There is confusion as to whether they are mandatory ‘must do’ instructions or simply guidelines.*
- 2.5 The Police have made good progress in addressing these issues.
- 2.6 The Police have established a Corporate Instruments team of five people in the Policy Group, which is based in Police National Headquarters. The team works on operational policies. The team has been asked to:
- prepare a framework for integrating the Police’s corporate instruments;
 - review and align the documents within this framework; and
 - establish a process and library for preparing and distributing the corporate instruments.
- 2.7 The work of the team is wider than the policies, instructions, and directives relating to the investigation of complaints of misconduct against police officers and investigation of adult sexual assault complaints.

- 2.8 The team has been responsible for overseeing the review of:
- all national operation and administrative policy, orders, instructions, and guidelines (including memoranda of understanding) by the Police's national business groups and service centres; and
 - district orders and other local policy and instructions by district commanders.
- 2.9 The issuing of a Commissioner's Circular (2008/04) in 2008 has supported this review work.
- 2.10 As part of the review work, the team has established a single electronic site where all corporate instruments are stored. This is known as the Police Instructions Intranet site. The site includes national as well as local orders prepared by districts and business groups. The Corporate Instruments team publishes local orders on the Police Instructions Intranet site. All local orders are reviewed by the Corporate Instruments team leader before publishing.
- 2.11 The ASA Investigation Guidelines and complaint investigation process are available on the site. There is also evidence of consolidation and updating of the predecessor documents to the ASA Investigation Guidelines.
- 2.12 The team has set up policies and procedures for preparing, maintaining, publishing, and cancelling general instructions³ and local orders. The policies and procedures put in place should reduce duplication, improve consistency, reduce conflict, and improve the currency of the corporate instruments. The procedures also require individual instruments to be reviewed at least once every two years.
- 2.13 Although the Police have reviewed and consolidated their corporate instruments, the review and consolidation is ongoing. For example, there were 1400 general instructions in 2006, and at the time of our audit fieldwork there were 535. By the end of the review, the Police want to have 10 general instructions that address the most critical policies. Because of the number of instruments involved, the Police have decided that what is most important is that people know where the documents are stored and can find them.
- 2.14 Information provided to us by the Police indicates that, between June and October 2009, 2302 corporate documents, including general instructions, had either been amended or published as new documents. This includes various documents relating to complaints, investigations, and interviews. It does not include the ASA Investigation Guidelines.
- 2.15 The extent of amended or new documents illustrates the large number of corporate instruments the Police have and the challenges an individual employee

3 The Police issue a corporate instrument as a general instruction when the consequence of non-compliance is high. For example, non-compliance could kill or seriously harm a police officer or member of the public, lead to an employee facing charges, cause the Police major embarrassment or bring them into disrepute, or reduce the public's trust and confidence in the Police.

faces in being aware of the documents that are relevant to them. In our view, the Police have used a logical categorisation of documents on the Police Instructions Intranet site to help users find a document.

Summary

- 2.16 The Police have reviewed and consolidated some of their corporate instruments, including those about investigating complaints of misconduct and allegations of sexual assault by police staff. There is still work to do, and this review and consolidation is continuing.

Commission of Inquiry's recommendation R2

New Zealand Police should ensure that general instructions are automatically updated when a change is made to an existing policy.

Our assessment: Not yet completed by the Police.

- 2.17 Individual business groups within the Police decide whether to prepare, renew, or update a general instruction. The template for issuing a general instruction requires a review date to be specified.
- 2.18 When the date is reached, the owner of the general instruction will receive an automatic reminder to review the document. The notification, but not the actual updating of a general instruction, is automatic.
- 2.19 Changes to an existing policy do not trigger the automatic reminder nor ensure that any related general instructions are updated accordingly.

Summary

- 2.20 The Police have set up an automatic reminder process for when a general instruction reaches its review date. This does not guarantee that the general instruction will actually be updated then. The Police have not set up a method or process for ensuring that general instructions are updated when they reach their review date, or for ensuring that policy changes will automatically update any related general instructions.

Commission of Inquiry's recommendation R3

New Zealand Police should develop a set of policy principles regarding what instructions need to be nationally consistent and where regional flexibility should be allowed.

Our assessment: Not yet completed by the Police.

- 2.21 The Police have a devolved management structure. Within this structure, national and district managers have the discretion to decide whether to initiate a corporate instrument and the form of this instrument. General instructions are orders or instructions that require absolute compliance and accountability by all Police employees.
- 2.22 There is some guidance available to managers about when it is appropriate to use a general instruction. The instruction, once prepared, is also reviewed by members of the Corporate Instruments team (who primarily check format, completeness, and alignment with Police strategy) and the relevant national manager, and is approved by the Commissioner. The Police are still reviewing their general instructions, and until this task is finished the implementation of recommendation R3 will not be complete.
- 2.23 Local orders can be issued by particular senior staff within the Police. Local orders apply to all Police employees stationed or seconded in the applicable district or business group. They enable regional flexibility. The local orders are drafted by the district or business unit and are checked by the Corporate Instruments team before being published on the Police Instructions Intranet site. The local orders have to be consistent with and support strategic policy, direction, and outcomes, and not conflict with or duplicate national policy and outcomes.

Summary

- 2.24 The Police have established a framework that provides guidance on when instructions need to be issued at a national level, while providing for regional flexibility. If the guidance is followed, regionally developed instructions should be consistent with national policy and outcomes. This work is not yet complete.

Commission of Inquiry's recommendation R4

An enhanced policy capability should be developed within the Office of the Commissioner to provide policy analysis based on sound data, drawing upon the experience of front-line staff and upon research from New Zealand and beyond.

Our assessment: Completed by the Police.

- 2.25 The Police commissioned an independent review of their policy capacity and capability in late 2005. The reviewers reported in May 2006, and said that the Police “urgently needs to enhance its policy capacity”.⁴

4 Unpublished report by Quilter H and Brown R (May 2006), *Review of Police policy capability*.

- 2.26 The reviewers were strongly of the view that the Police should increase the number of staff in the Policy Group to provide a strong central pool of policy expertise, and proposed a significant increase in the size of the Group. The Police generally agreed “with the thrust, findings and observations” in the report, and committed to providing additional resources.
- 2.27 At the time of the review, there were eight staff in the Policy Group. The Police aimed to increase this to 26 staff.
- 2.28 Decisions about the policy function were made before the Commission’s report was published in 2007, but occurred during the period the Commission was performing its work.
- 2.29 The Policy Group is now managed by the National Manager Policy and Legal Services. It consists of four teams, broadly covering:
- Justice and Transport policy;
 - Crime and Social policy;
 - Global policy issues; and
 - Corporate Instruments (as described earlier in this Part).
- 2.30 We note that the Police have been producing policy-related advice on a number of issues that are of strategic significance to policing, including:
- a Methamphetamine Control Strategy (2009);
 - advice on an Arms Amendment Bill (undated);
 - DNA legislation (undated);
 - Whanganui gang patch legislation (undated); and
 - a submission on the Law Commission’s issues paper on the reform of New Zealand’s Liquor Laws (2009).
- 2.31 There was evidence in the policy work that we reviewed of the Police drawing on information and research from overseas.
- 2.32 To fill some places in the Policy Group arising from the secondment of staff to other areas, the Policy Group has had a series of six-month secondments from districts, usually seconding staff at sergeant or senior sergeant level. The Police’s view is that these secondees bring a variety of operational experiences to the Group, and take their understanding of the policies back to their district. At the time of our audit fieldwork, we were told that there had been five such secondees.
- 2.33 We consider that the Police now have an enhanced policy capability, and the secondment of frontline staff enables their operational experience to be drawn on as policies are prepared.

Summary

- 2.34 The Police have enhanced their policy capability and have frontline staff regularly working within the Policy Group.

Commission of Inquiry's recommendation R5

New Zealand Police should develop an explicit policy on notifying the Commissioner of Police when there is a serious complaint made against a police officer. This policy and its associated procedures should specify who is to notify the police commissioner and within what time frames.

Our assessment: Not yet completed by the Police.

- 2.35 The Commissioner of Police issued a Circular for all staff (on 24 August 2009) requiring that the Commissioner be notified immediately when a police officer is the subject of a serious complaint. The Circular requires a Police employee receiving information about a serious complaint to take immediate steps to notify the appropriate district commander or national manager. It specifies the steps, and who is to notify the Commissioner, and requires this to be done immediately.
- 2.36 The Police told us that the approach in the Circular built on the practice they had been following since shortly after the Commission's report was published.
- 2.37 The Police consider a serious complaint to be one that is of "such significant public interest it puts, or is likely to place, the Police's reputation at risk". Examples of serious complaints included in the Commissioner's Circular are:
- *complaints against Police employees likely to generate significant media coverage*
 - *complaints that would otherwise be considered not serious but involves Police employees at the level of position of inspector or above, or equivalent level senior managers who are not constables*
 - *complaints that involve members of the Police Executive*
 - *complaints against Police employees regarding incidents of a sexual nature.*
- 2.38 We have viewed a list of 54 cases considered by the Police to be serious complaints against police officers since July 2007. In all but two cases, the date on which the Commissioner (or Acting Commissioner) was notified is recorded.
- 2.39 The Police need to ascertain that the Circular prepared to meet this recommendation is being fully complied with before the recommendation can be considered fully completed.

Summary

- 2.40 Staff within the Police have been instructed to inform the Commissioner of Police about all serious complaints against a police officer. The Circular sets out the requirements and general time frame for notifying the Commissioner of Police. The Police need to monitor compliance with the Circular to ensure that the intent of the Commission's recommendation is being fully met.

Commission of Inquiry's recommendation R6

New Zealand Police should ensure that members of the public are able to access with relative ease information on the complaints process and on their rights if they do make a complaint against a member of the police.

Our assessment: Not yet completed by the Police.

- 2.41 An effective complaints process helps to minimise the risks that inappropriate behaviour by any member of the Police pose to public confidence in the Police. Easy access to the mechanisms for making a complaint about a police officer is an essential part of an effective complaints process.
- 2.42 Information on how to make a complaint against a member of the Police, noting most of the methods, is provided in the Frequently Asked Questions section of the Police website (www.police.govt.nz). The methods include:
- visiting a police station;
 - mailing or faxing a letter to any police station;
 - writing to the Office of the Police Commissioner;
 - contacting the Independent Police Conduct Authority by letter, telephone, or email, or by using the Independent Police Conduct Authority's online complaints form;
 - contacting a solicitor; or
 - contacting the registrar of a District Court.
- 2.43 Other methods mentioned in Police documents and our interviews with members of the Police included making a complaint to an Ombudsman, approaching a local member of Parliament, and calling the Crimestoppers telephone line.
- 2.44 We performed a small (18 respondents) random telephone survey, with the Police's permission. We telephoned police stations anonymously and asked for information about how to make a complaint against a police officer. The information we were given was mixed, and two respondents were not sure what we should do.
- 2.45 Although our survey involved only a small sample, the findings of our survey were consistent with our interview findings. In our view, the Police need to ensure

that staff provide the public with consistent information about how to make a complaint and how complaints are handled.

- 2.46 The Police's record of progress against their project milestones for the Commission's recommendation R6 is shown in Figure 2.

Figure 2

The New Zealand Police's assessment of progress against project milestones for responding to recommendation R6 of the Commission of Inquiry into Police Conduct

Description	Planned start	Planned finish	Actual start	Actual finish
Making information on the complaints process and complainants' rights available on the Internet	1 September 2008	29 May 2009	1 September 2008	-
Scoping paper detailing scope, milestones, budget and time frames for recommendation R6	2 February 2009	27 February 2009	2 February 2009	27 February 2009
Developing a complaint process and complainants' rights document	2 April 2009	13 November 2009	-	-
Including complainants' rights in the Service Charter	1 July 2009	29 March 2010	-	-
Developing a communications plan	16 February 2010	29 March 2010	-	-
Completing information pamphlets	27 April 2010	10 May 2010	-	-

- 2.47 In our view, the Police need to complete the work that remains unfinished. Implementing a communications plan, for example, could help to ensure that Police staff adequately understand the complaints process.
- 2.48 The Police told us that they are preparing a pamphlet for the public and the Police about the complaints process.

Summary

- 2.49 The Police have more work to do to provide easy public access to information on the complaints process and to know that their staff are following the correct process. There is information about the complaints process on the Police website.

Asking a police officer is less likely to provide reliable information about that process. The Police have not yet made information on the rights of complainants available, and have more work to do to improve staff and the public's understanding of the complaints process.

Recommendation 5

We recommend that the New Zealand Police implement plans for improving the information available to members of the public, including their rights and the process to follow when reporting inappropriate behaviour by police officers.

Commission of Inquiry's recommendation R7

New Zealand Police should undertake periodic surveys to determine public awareness of the processes for making a complaint against a member of the police or a police associate.

Our assessment: Not yet completed by the Police.

- 2.50 The Police need to check that the public know about the complaints process. The Commission's report suggested that a periodic survey might be an effective tool "to ensure that there is awareness amongst the general public that there are processes for making a complaint and that [members of the public] have defined rights when doing so".
- 2.51 The Police consider that a question in their annual citizens' satisfaction survey addresses the Commission's recommendation. The survey includes a question about whether respondents had "any problems or experienced any negative incidents or interactions" when receiving services from the Police. Respondents who answer "yes" to this question are then asked how strongly they agree or disagree that "It was clear what to do if I had a problem".
- 2.52 In the 2009 survey, 4% of respondents indicated having a problem or experiencing a negative incident or interaction with the Police. This is a relatively small proportion. Of these people, 40% indicated that they "agreed" that it was clear what to do about this and 40% indicated that they "disagreed" that it was clear what to do about this.
- 2.53 Surveying public satisfaction with services and seeking information from people who have had a negative experience with the Police is good practice. However, this information does not specifically assess public awareness of the existing complaints process. Respondents who agreed might not be aware of the actual process for making a complaint. Similarly, respondents who had positive experiences with the Police were not asked about their awareness of the complaints process.

- 2.54 To address the Commission’s recommendation, the Police will have to either include a question in their annual citizens’ satisfaction survey asking specifically about public awareness of the complaints process – and not just from the survey respondents who had a negative experience of the Police – or obtain this information through some other means.
- 2.55 The Police told us that their survey questionnaire will be reviewed in June 2010. They will then determine how best to address recommendation R7.

Summary

- 2.56 The Police carry out periodic surveys of public satisfaction with their services. However, the surveys do not provide the Police with assurance that members of the public are aware of the processes for making a complaint. To get that assurance, the Police need to get more specific information from a wider audience.

Commission of Inquiry’s recommendation R8

New Zealand Police should develop its database recording the numbers of complaints against police officers to allow identification of the exact number of complaints and the exact number of complainants for any one officer.

Our assessment: Not yet completed by the Police.

- 2.57 The Police have purchased and installed a software application, to be implemented nationally, to record complaints information which can be used to provide an early warning of inappropriate behaviour. The Police told us that they have been using the system since about May 2009. The system is called IAPro and is used by more than 250 agencies worldwide.⁵
- 2.58 The Police are also using a piece of software known as BlueTeam that allows district professional standards managers to input and extract information (with the appropriate confidentiality arrangements) from IAPro. This full functionality was not in place at the time of our audit fieldwork but aspects of it were being piloted in the Wellington District and in three Auckland districts.
- 2.59 We observed IAPro in action. It can report about an individual employee and can produce early warning alerts based on criteria such as the type of incident or type of force used, or the type of allegations made. The Police were not using this latter function at the time of our audit fieldwork and were still deciding “the science behind what will trigger an alert” about an employee.
- 2.60 The Police told us that information recorded in the system includes complaints, matters reported to the Police under the Memorandum of Understanding

⁵ The Internal Affairs Professional (or IAPro) software helps “public safety agencies in identifying potential problems early on, so that proactive action can be taken. IAPro ensures the most efficient handling of citizen complaints, administrative investigations, use-of-force reporting, and other types of incidents, while providing the means to analyze and identify areas of concern” (see www.iaprofessional.com).

between the Police and the Independent Police Conduct Authority, employment investigations, and selected information previously recorded in the Police's PeopleSoft human resources system.

- 2.61 The Police told us that, before IAPro, such information was stored in multiple databases and hardcopy files. The Police would have had to manually search the databases and files to answer any queries about a particular employee.
- 2.62 At the time of our audit fieldwork, the Police were reviewing the codes used in the system to classify types of complaints and allegations. There are 60 different categories covering aspects of external service delivery and internal performance matters.
- 2.63 We were told that IAPro can record the source of a complaint (including anonymous sources) as well as the type of complaint. Information such as Police station and workgroup names can also be recorded, which would enable the Police to identify and analyse patterns or trends.
- 2.64 At the time of our audit fieldwork, the only staff who could access the information in IAPro were in the Professional Standards and Employment Relations teams at Police National Headquarters. District professional standards managers could submit complaint information through BlueTeam. In the future, BlueTeam will be upgraded to allow district professional standards managers to view and update information on current investigations into employees in their districts. Until then, district staff contact the Professional Standards team for the information. The national manager of the Professional Standards Team has to approve the distribution of the information.
- 2.65 The risk with any warning system is that its effectiveness depends on one of two options. The first is that compliance monitoring identifies issues. The second is that individuals – police officers or members of the public – see the behaviour as inappropriate and are prepared to report it, and that full and accurate details are promptly recorded within the system.
- 2.66 The Police told us that they intended to make it easy for staff to raise issues by having telephone numbers for staff to call as part of their Employee Assistance Programme and the Crimestoppers initiatives. We commend the Police for intending to create multiple channels for staff to raise issues.
- 2.67 It is important that the full early warning functionality of the Police's electronic complaints recording system be used as soon as practicable. In our view, and based on what we saw and were told during our audit fieldwork, the risk remains that inappropriate behaviour may not be seen as inappropriate or be reported.

Summary

- 2.68 The Police have put in place a specialised software application that has the capacity to record complaints against individual police officers, the number of those complaints, and the number of complainants. The implementation of this application is still in its early stages.
-

Recommendation 6

We recommend that the New Zealand Police start to fully use the early warning functionality of the electronic complaints recording system (IAPro) as soon as practicable, at both national and district levels, so that any inappropriate behaviour and resistance to change is regularly and systematically identified and followed up.

Commission of Inquiry's recommendation R9

New Zealand Police should review the implementation of the Adult Sexual Assault Investigation Policy to ensure that the training and resources necessary for its effective implementation are available and seek dedicated funding from the Government and Parliament if necessary.

Our assessment: Not yet completed by the Police.

- 2.69 The Police issued updated ASA Investigation Guidelines on 1 July 2009. The ASA Investigation Guidelines updated a 1998 version.
- 2.70 Although we have considered the ASA Investigation Guidelines to be the Police's policy for investigating adult sexual assault complaints, we note that policy documents are generally different from guidelines. Policy documents usually outline higher-level principles (for example, investigations will be carried out fairly, promptly, and impartially), while guidelines outline the process for giving operational effect to these principles.
- 2.71 We encourage the Police to review the ASA Investigation Guidelines to ensure that they contain enough information of a policy nature.
- 2.72 The following aspects of the ASA Investigation Guidelines are important for effective implementation, and therefore what we would expect the Police to monitor.
- 2.73 The ASA Investigation Guidelines require that a specialist crisis response person is made available to the complainant early in the investigation, and that complainants be kept well informed throughout the investigation and judicial process.

- 2.74 The ASA Investigation Guidelines require the investigation to be assigned to an adult sexual assault investigator. If an adult sexual assault investigator is not available to deal with a complaint, and it is necessary to proceed urgently, then the reasons for this must be appropriately recorded on file. In these instances, the most suitable police officer should be assigned to the investigation.
- 2.75 The Police told us that, in some instances, parts of an investigation may be carried out by a person who is not a trained adult sexual assault investigator, but who is under the supervision of a trained investigator. We encourage the Police to ensure that, in all instances, the requirements of the ASA Investigation Guidelines are complied with.
- 2.76 The ASA Investigation Guidelines require an investigator to obtain permission from a Detective Senior Sergeant or above rank before suggesting or informing a complainant that the investigator believes that the allegation is fabricated.

Monitoring the implementation of the ASA Investigation Guidelines

Auditing

- 2.77 The Police have carried out two internal reviews to determine how many particular sorts of adult sexual assault cases are investigated by staff who have received specialist training in investigating adult sexual assault complaints.
- 2.78 In the first of the internal reviews (covering April 2008 to March 2009), the Police examined cases of alleged sexual violation by rape or unlawful sexual connection of females over 16, and indecent assault on males and females over 16. Of 120 files randomly selected from all 12 districts (10 from each district), 68 files or 57% were assigned to staff with specialist training in adult sexual assault investigation.
- 2.79 Specialist training in investigating adult sexual assault complaints is important for members of the Criminal Investigation Branch, because they investigate most complaints about adult sexual assault. Twenty-four percent of the files were assigned to staff who were not part of the Criminal Investigation Branch and only 10% of the assigned staff had received the specialist training.
- 2.80 In the second of the internal reviews, the Police examined 288 files, from all 12 districts, relating to cases of alleged rape or unlawful sexual connection of females. More than 90% of these cases were investigated by Criminal Investigation Branch staff. The Police found that 61% of these files had been investigated by staff with specialist training in investigating adult sexual assault complaints. A small percentage of files (8%) were assigned to staff who were not part of the Criminal Investigation Branch, and 36% of the assigned staff had received the specialist training.

- 2.81 At the time of our audit fieldwork, the Police intended to do a third audit in February 2010. Their intention was that, by 30 June 2010, 80% of investigated adult sexual assault cases will have been investigated by staff with the appropriate specialist training.
- 2.82 In December 2008, the Police decided, after an Adult Sexual Assault Policy Implementation Review, that “[adult sexual assault] files should be randomly audited by independent expert practitioners to ensure quality of decisions and outcomes”. We were not made aware of any such independent scrutiny of files at the time of our audit fieldwork.
- 2.83 In our view, the Police need to conduct additional independent assessments of the implementation of the ASA Investigation Guidelines.

Dip sampling

- 2.84 The ASA Investigation Guidelines state that there should be annual “dip sampling” of completed adult sexual assault files to assess whether they have been completed in the approved manner. Dip sampling is a means of assessing whether selected expectations have been met, by looking at what has been recorded in the files.
- 2.85 At the time of our audit fieldwork, we were told that the Police do dip sampling of five files about every month from a district and would be reporting the results of that work to their Executive Committee in February 2010. The results of this dip sampling were not available to us at the time of our audit fieldwork and we were unable to form a view on its adequacy or effectiveness. We were told that the dip sampling would be based around 9-10 indicators of compliance with the ASA Investigation Guidelines.

Other monitoring

- 2.86 The ASA Investigation Guidelines state that each Police district’s adult sexual assault co-ordinator will report annually to the national adult sexual assault co-ordinator at Police National Headquarters on:
- *any issues relating to compliance with these guidelines and connected training*
 - *any initiatives, preventative measures, endeavours and developments that have proved successful in the investigation and area of [adult sexual assaults].*
- 2.87 We have seen only limited historical evidence of this occurring. The Police told us that district adult sexual assault co-ordinator roles are filled mostly by district crime managers or non-commissioned officers with wide-ranging responsibilities from the Criminal Investigation Branch.

- 2.88 The Police do not appear to have sought additional dedicated funding from the Government and Parliament for ensuring that their response to the Commission's recommendation R9 was effectively implemented.

Summary

- 2.89 The Police have updated their ASA Investigation Guidelines and reviewed some files of investigations into adult sexual assault complaints. In our view, the work falls short of ensuring that the implementation of the ASA Investigation Guidelines is effective.

Recommendation 7

We recommend that the New Zealand Police give enough attention and priority to monitoring and auditing of adult sexual assault investigations to ensure that all of these investigations fully comply with the Adult Sexual Assault Investigation Guidelines.

Recommendation 8

We recommend that the New Zealand Police conduct additional independent assessments of the implementation of the Adult Sexual Assault Investigation Guidelines, to clarify whether complainants receive a consistent level of service (including when their complaint is first received) and whether the training and resources necessary to effectively implement the Investigation Guidelines are in place.

Commission of Inquiry's recommendation R10

New Zealand Police should incorporate the Adult Sexual Assault Investigation Policy in the "Sexual Offences" section of the New Zealand Police Manual of Best Practice for consistency and ease of reference.

Our assessment: Completed by the Police.

- 2.90 The ASA Investigation Guidelines are incorporated within the "Sexual offences" chapter of the Police manual. This document can be accessed through the Police Intranet. Therefore, the ASA Investigation Guidelines are available to staff who have computer access to the Police Intranet.
- 2.91 The Police published the ASA Investigation Guidelines on the Police Intranet on 1 July 2009.

Summary

- 2.92 The ASA Investigation Guidelines are available to all staff with access to the Police Intranet.

Commission of Inquiry's recommendation R11

New Zealand Police should strengthen its communication and training practices by developing a system for confirming that officers have read and understood policies and instructions that affect how they carry out their duties and any changes thereto.

Our assessment: Not yet completed by the Police.

Critical policies and instructions

- 2.93 The Police have set up an electronic notification and comprehension-testing tool, called "I-learn", for critical policies and instructions. It was new and not in widespread use at the time of our audit fieldwork.
- 2.94 Comprehension testing is required if the policy or instruction is considered "critical". The Police do not intend to test whether staff know and understand all Police policies.
- 2.95 There is much discretion in the process used to decide whether a policy or instruction is "critical". In our view, there is some prioritisation risk in this approach because it relies on a business owner (the person responsible) judging the importance of their area's policy or instruction. They can do this without considering the relative importance of their policy or instruction against policies and instructions from outside their area, and in the absence of focused strategic oversight across areas.
- 2.96 The I-learn tool provides employees with a copy or link to a policy or instruction as well as testing their understanding of it. This means that, in effect, the tool is an "open book" test. I-learn records each candidate's results, including the number of attempts and the questions that were answered correctly and incorrectly. Currently, the results of any other comprehension testing, and information about staff who have not completed the tests, would have to be manually collated.
- 2.97 The Police are working on an electronic link between I-learn and their PeopleSoft human resources database so that employee data can be transferred to I-learn, and results can be transferred to PeopleSoft.

Non-critical policies and instructions

- 2.98 The Police do not test how well staff understand policies and instructions that are not considered critical. Instead, the Police rely on employees taking responsibility for studying the documents, and the normal publishing and information-sharing processes. These processes may include:
- local district newsletters;
 - specific training;

- information in the Ten One newsletter;
 - information on the “Bully [bulletin] board”;
 - information in the Commissioner’s blog;
 - direct email notification; and
 - notification through the “what’s new” section of the Police instructions Intranet pages.
- 2.99 These processes may make it more likely that police officers have read and understood policies and instructions that affect how they carry out their duties, and any changes to them.
- 2.100 We encourage the Police to strengthen how they:
- identify the policies and instructions that affect how police officers carry out their duties;
 - prioritise those policies and instructions according to significance;
 - test and confirm that police officers understand those policies and instructions; and then
 - use the results of that testing to improve the communications and training practices.
- 2.101 We consider that the ASA Investigation Guidelines would have to be high on the list of priorities and tested.

Summary

- 2.102 The Police have strengthened their communications and training practices. They have set up an electronic system that can test how well staff know and understand policies and instructions. They still have further progress to make to ensure that the system is used, at least for critical policies, and that communication and training practices are informed by the results.

Commission of Inquiry’s recommendation R12

New Zealand Police should strengthen its communication and training practices to ensure the technical competencies of officers are updated in line with new policies and instructions.

Our assessment: Not yet completed by the Police.

- 2.103 We described the Police’s approach to confirming that police officers have read and understood policies and instructions related to their duties in our assessment of progress against recommendation R11. We were not made aware of any other systems or processes for ensuring that technical competencies are updated for new policies and instructions.

- 2.104 The business owners of policies or instructions are responsible for identifying whether and how to update any corresponding technical competencies. They have a great deal of discretion, and the Police rely on the decisions they make. It is up to these business owners to advocate that training in updated technical competencies becomes part of the annually mandated national training.
- 2.105 In September 2009, the Police commissioned analysis to identify the specific duties that are carried out by general duties constables during the early years of their careers. The Police intend this work to help them to:
- write an accurate job description;
 - define the essential technical and organisational competencies for the role; and
 - better understand their current recruitment, selection, and training systems.
- 2.106 In our view, this work is useful for supporting the competency of employees to be current and relevant. This type of work should be programmed to occur relatively regularly, in the absence of other systems and processes. The work could also be extended to other ranks, although the risk of technical competencies being misaligned with new policies and instructions is perhaps greatest for frontline constables, given the breadth of the issues they deal with.
- 2.107 It is also vital that supervisors and sergeants are up to date with new policies and instructions and that they support the development of officers' competencies accordingly.

Summary

- 2.108 The Police have a discretionary process for updating technical competencies in line with new policies and instructions. More work is required to meet the Commission's recommendation.

Commission of Inquiry's recommendation R13

Bearing in mind the mobility of the workforce, New Zealand Police should conduct a review of what training should be mandatory at a national level and what should be left to the discretion of districts.

Our assessment: Not yet completed by the Police.

- 2.109 The Police have carried out three reviews of aspects of training that have informed their approach to determining national and district training requirements. One of these reviews (November 2009) examined district training. The others (September 2009 and November 2009) examined the Police's training system and the structure and role of the Training Service Centre (the Royal New Zealand Police College).

- 2.110 The reviews found that district training activities were not integrated with national training, and that national planning and processes to control the volume and type of training in the districts were poor. They also found a significant gap in the effectiveness of evaluation, which was not necessarily ensuring that training was delivered properly. The Police were not able to demonstrate that knowledge gained through training was applied in the workplace or that behaviour was changing.
- 2.111 As a result of these reviews, the Police said that they would take a more centralised approach to district and national training, with enough oversight and control to maximise effectiveness and efficiency. This would involve the Executive Committee approving an annual training delivery plan based on advice from the Police's Training Advisory Committee. The annual training delivery plan specifies which training should be mandatory, takes into account the Police's annual operational and strategic priorities for a given year, and considers feedback from district commanders.
- 2.112 The Police's Training Governance Committee (now the Training Advisory Committee) has decided that training should be limited to 5% of annual working hours, which means about 80 hours each year. Half of this could be for "cyclic" and nationally mandated training. The other half is for training that is left to the discretion of districts.
- 2.113 In 2010/11, there will be further significant changes to the process for deciding on, delivering, and evaluating mandatory training under the Training Service Centre change programme.
- 2.114 Eventually, the quality and content of all training provided by Training Service Centre staff both at the Royal New Zealand Police College and in districts will be subject to approval by an Approvals Committee.

Summary

- 2.115 The Police have reviewed aspects of national and district training and have set up an annual process for determining national training requirements. The Police are still making significant changes to their systems and processes for planning, delivering, and evaluating their training. There is still work to do to complete the Commission's recommendation and check that the changes are having the desired effect.

Commission of Inquiry's recommendation R14

New Zealand Police should ensure that the practice of providing investigating officers with a reminder of the standards for complaint investigation is applied consistently throughout the country.

Our assessment: Not yet completed by the Police.

- 2.116 To start an investigation, the Professional Standards team at Police National Headquarters writes to the relevant district commander requesting that an investigation start. For serious complaints, this letter requests that the district commander ensure that:
- a declaration under the Conflict of Interest Policy is completed;
 - the investigator maintains regular liaison with the Independent Police Conduct Authority investigators;
 - the investigator maintains regular contact with the complainant;
 - an investigation plan is prepared in consultation with the National Manager, Professional Standards;
 - the investigator, Police staff, and witnesses are aware that this matter is a Police investigation and that the normal Bill of Rights and disclosure rules apply; and
 - separate investigators are appointed to conduct the criminal investigation, employment investigation, and review of policy, practice, and procedure.
- 2.117 The actual standards of investigation are outlined in a document entitled *Police investigations of complaints and notifiable incidents*. This is available on the Police Instructions Intranet site.
- 2.118 We did not see any practices for providing the police officers carrying out the investigation with a reminder of the standards for complaint investigation.
- 2.119 Without a system for checking, the Police will not know whether the recommendation has been met.

Compliance with standards

- 2.120 The Police have several review processes that can involve checking whether police officers have complied with investigation standards.
- 2.121 The Police told us that they use a former police inspector, a District Court judge, a former police officer, and a former detective superintendent to provide an external review function for significant complaints files (estimated at about 10 reviews a week), before the files are returned to the Independent Police Conduct Authority. The Police also told us that the Professional Standards team at Police National Headquarters provides “checks and balances” to ensure that investigations are carried out consistently.

2.122 We were told that checks at the Police National Headquarters included a review of files to examine:

- the correct recording and notification of complaints;
- whether Police have met their obligations to the complainant;
- whether completed complaint enquiry files show that procedural requirements and enquiry avenues have been completed in the appropriate manner (and, if not, identify the discrepancies and direct remedial action);
- whether district investigations reach the national standards; and
- whether summaries and recommendations from investigating officers and district managers are consistent with the recorded facts.

2.123 The Police also have three groups (“pods”) at Police National Headquarters, each with responsibility for a geographic area and covering the whole country in total. These groups scrutinise files to ensure that they are completed properly before the files go to the Independent Police Conduct Authority. The Police told us that the groups are responsible for:

- ensuring that the appropriate disciplinary option or remedial action is recommended where evidence discloses misconduct or neglect of duty;
- co-ordinating and implementing suspension, diversion, duty stand-down, and dismissal processes;
- preparing correspondence where the Independent Police Conduct Authority has commented on a police officer’s conduct, the conduct of an investigation, or some other matter relating to practice, policy, and procedure; and
- ensuring that the Police comply with obligations under the Policing Act 2008, the Victims of Offences Act 2002, and the Independent Police Conduct Authority Act 1988.

Summary

2.124 The Police have written expectations available to all staff to guide investigations of complaints against Police. They also do some checking of complaint investigation files. However, they are not able to determine whether the processes are effective in providing an adequate and nationally consistent reminder of the standards required for investigators.

2.125 We encourage the Police to put in place monitoring measures to check that the practices used to provide investigators with a reminder of the standards for complaint investigations are applied consistently and are effective.

Commission of Inquiry's recommendation R15

New Zealand Police should improve the process of communicating with complainants about the investigation of their complaint, particularly if there is a decision not to prosecute. Complainants and their support people should be given: realistic expectations at the start of an investigation about when key milestones are likely to be met; the opportunity to comment on the choice of investigator; regular updates on progress, and advance notice if the investigation is likely to be delayed for any reason; assistance in understanding the reasons for any decision not to prosecute.

Our assessment: Not yet completed by the Police.

- 2.126 The ASA Investigation Guidelines state that:
- ... providing information to victims about the processes being undertaken and explaining reasons why actions are necessary is one of the most important factors in ensuring a victim's welfare and pathways to recovery.*
- 2.127 The ASA Investigation Guidelines require investigators to keep complainants well informed about the investigation of their complaint from early on in the process. This includes providing information about:
- the timing of each stage of the investigation process;
 - the progress of the investigation; and
 - any decision not to proceed with an investigation or prosecution.
- 2.128 The ASA Investigation Guidelines also require the Police to give a complainant an opportunity to comment on their needs for the selection of the:
- adult sexual assault investigator;
 - specialist adult witness interviewer;
 - medical/forensic doctor; and
 - support person(s).
- 2.129 Police officers have to record the contact they have with complainants to provide progress updates about and during the investigation. To record the contact, they are required to use a Police Record of Victim Contact form, or POL1060. We were told that the Police have found instances where police officers have had contact with complainants but have not documented that contact on the form.
- 2.130 We were not made aware of any plans for assessing how well the requirements in the ASA Investigation Guidelines are applied or working beyond any aspects of communication with complainants that may be examined as part of dip sampling (see paragraphs 2.84-2.85). The Police told us that contact with the complainant would be one of the dip sampling indicators.

Summary

- 2.131 The Police have identified the importance of good communication with adult sexual assault complainants. But more work is required to ascertain how well complainants are kept informed and whether the communication requirements in the ASA Investigation Guidelines need to be modified.
-

Recommendation 9

We recommend that the New Zealand Police regularly assess whether adult sexual assault complainants are kept well informed during the Police's investigation of their complaints.

Commission of Inquiry's recommendation R16

New Zealand Police should develop a consistent practice of identifying any independence issues at the outset of an investigation of a complaint involving a police officer or a police associate, to ensure there is a high degree of transparency and consistency. The practice should be supported by an explicit policy on the need for independence in such an investigation. In respect of the handling of conflicts of interest, the policy should, among other things, identify types and degrees of association; define a conflict of interest; provide guidelines and procedures to assist police officers identify and adequately manage conflicts of interest (including in cases where cost or the need for prompt investigation counts against the appointment of an investigator from another section or district); ensure that the risk of a conflict of interest involving investigation staff is considered at the outset of any investigation involving a police officer or police associate.

Our assessment: Not yet completed by the Police.

- 2.132 The Police's Independence of Investigations (Safe Processes) document provides high-level guidance to help police officers to identify conflicts of interest and specific requirements. It requires any conflict to be declared to the officer's supervisor. The guidance notes that "under no circumstances must supervisors investigate allegations of sexual serious misconduct by Police employees under their direct supervision."
- 2.133 In instances where it is necessary to act immediately to protect life, property, or the public peace, Police employees must act to properly discharge their lawful duties and subsequently declare any conflicts of interest to an appropriate supervisor. The supervisor must document what has been declared, determine what affect the conflict had on the actions taken by the employee, and act on this determination accordingly.
- 2.134 The Independence of Investigations (Safe Processes) document requires police officers to complete a conflict of interest declaration for investigations into matters considered to be in categories 1-3 using the Independent Police Conduct

Authority's categorisation of complaints.⁶ The investigator's supervisor has to review and sign the declaration.

- 2.135 The guidance does not require a conflict of interest declaration for matters that fall within categories 4-5 (see below). Nevertheless, in our view, ensuring independence in the investigation of these is still very important, especially given matters such as excessive delay, or failing to act in good faith, have the potential to escalate into a more serious matter.
- 2.136 Category 4 complaints are defined as those that are appropriate for conciliation. They include, for example, excessive delay, inappropriate racial comments, serious discourtesy, minor policy breaches and minor traffic matters, and inappropriate use of any Police information system not amounting to corruption.
- 2.137 Category 5 complaints are defined as minor or older than 12 months at the time of reporting and have been declined by the Independent Police Conduct Authority but may still be of interest to the Police. Examples include attitude or language complaints, failing to act in good faith, and where the person aggrieved does not make a formal complaint.
- 2.138 In our view, investigations into complaints that fall within categories 4-5 could benefit from scrutiny from someone beyond the prevailing culture of a police officer's immediate work group. There is the potential for complaints investigated by someone within the same work group to be poorly assessed if it was the same prevailing culture that led to, or condoned, the behaviour in the first place.
- 2.139 Recommendation R16 called for consistent practice in identifying conflicts of interest at the outset of an investigation. We encourage the Police to require investigators investigating any complaint against a police officer to complete a conflict of interest declaration – regardless of the seriousness of the complaint.

Summary

- 2.140 The Police's guidance notes the need for independence when investigating complaints, and also applies to complaints involving a police member or associate. The Police need to do more to ensure that conflicts of interest are consistently and routinely identified at the start of any investigation into a complaint involving a police member or associate.

⁶ Category 1 complaints include, for example, serious breaches of policy or procedure that result in serious injury or death, sexual offending, dishonesty offences, and pursuits involving injury or death. Category 2 complaints include, for example, excessive use of force, misuse of authority, unlawful arrest or detention, and failing to investigate. Category 3 complaints include, for example, minor or no injury assaults, property damage, serious traffic matters, and a failure to report significant matters.

Commission of Inquiry's recommendation R17

New Zealand Police should expand the content of its ethics training programme to include identifying and managing conflicts of interest, particularly in respect of complaints involving police officers or police associates.

Our assessment: Not yet completed by the Police.

- 2.141 The Police's training on Contemporary Policing in New Zealand (which covers discretion, ethics, and professionalism) includes a relatively small section about conflicts of interest. The section highlights the need to recognise when a conflict of interest exists (real or perceived). The section also refers to conflicts of interest policy (see our assessment of progress with recommendation R16 for more information about this).
- 2.142 The facilitator's guide for the training does not pay particular attention to complaints involving police members or associates.
- 2.143 The Police told us that, as of February 2010, they were reviewing training packages to include identifying and managing conflicts of interest, particularly how complaints against police members or associates might be incorporated into their training.
- 2.144 We encourage the Police to complete this work and to monitor its effect on the extent to which police officers can identify and manage actual or perceived conflicts of interest involving a colleague or associate.

Summary

- 2.145 The Police include conflicts of interest in the Contemporary Policing in New Zealand training, but the training does not give particular attention to complaints involving police members or associates. The Police are yet to identify how they will incorporate complaints involving police members or associates into their training.

Commission of Inquiry's recommendation R18

New Zealand Police should ensure that training for the Adult Sexual Assault Investigation Policy is fully implemented across the country, so that the skills of officers involved in sexual assault investigations continue to increase and complainants receive a consistent level of service.

Our assessment: Not yet completed by the Police.

Training in investigating adult sexual assault complaints

- 2.146 The ASA Investigation Guidelines give the Criminal Investigation Branch responsibility for adult sexual assault investigations. The Police have estimated that there are 700-800 Criminal Investigation Branch members who could be "directly dealing with, or could be called upon to deal with, [adult sexual assault] investigations".

- 2.147 The Police have a specialist five-day training course in investigating adult sexual assault complaints. The adult sexual assault investigators' course ran in seven districts in 2007/08, in five districts in 2008/09, and at the Royal New Zealand Police College in both years. In 2009/10, the course has been delivered in three districts and at the Royal New Zealand Police College (as of 27 November 2009). At the time of our audit fieldwork, further courses were scheduled and some additional courses had been approved but not yet scheduled.
- 2.148 In 2007/08, 292 staff attended the adult sexual assault investigation training course. From 1 July 2009 to 27 November 2009, 82 staff attended the adult sexual assault investigation training course. The Police scheduled and approved a further 288 training places for the remainder of the 2009/10 financial year.
- 2.149 The Police's priority has been to have the staff most likely to investigate adult sexual assault undergo the adult sexual assault investigation training course. The Police envisage that, after three years, all of the relevant Criminal Investigation Branch staff will have received training in adult sexual assault investigations.
- 2.150 A record of who had booked and completed the training is kept in the Police's PeopleSoft human resources system.
- 2.151 Supervisors are responsible for ensuring that staff attend the training. District commanders are responsible for making sure that they have enough trained and qualified staff for specialist investigations and interviews to satisfy local demand.
- 2.152 Information on the completion rates for adult sexual assault investigation training in one of the districts we visited is provided in Figure 3, analysed by unit. In summary, fewer than 40% of the district's staff identified by the Police as needing training in investigating allegations of adult sexual assault had received that training. This varied between units, from no staff having been trained to all staff having been trained.
- 2.153 In another district we visited, 14 of the 17 Criminal Investigation Branch staff in one provincial centre had been trained. This further illustrates the variation in training coverage between teams and areas.
- 2.154 We acknowledge that providing training for all of the staff who investigate adult sexual assault complaints will take time and needs to be carefully scheduled so that it does not detract from the Police's delivery of services to the public. But the training needs to happen.
- 2.155 There is some evidence that sworn staff do not treat the training as a priority. In 2008/09, district training sessions had to be cancelled on four occasions. This is a waste of resources in terms of time spent organising these sessions as well as a lost training opportunity.

Figure 3
Number of staff, in one district, trained and still to receive specialist training in investigating adult sexual assault complaints

Unit	Trained before 2007	Trained in or after 2007	Total	Still to be trained	% trained
Administration	0	2	2	0	100%
CIB Break Squad	2	4	6	7	46%
CIB Car Squad	0	4	4	2	67%
CIB Child Abuse Team	0	5	5	5	50%
CIB Drug Squad	0	0	0	4	0%
CIB Fraud Squad	1	3	4	5	44%
CIB Proceeds of Crime	0	1	1	2	33%
Combined Investigation Unit	7	43	50	78	39%
Crime services	0	1	1	7	13%
Crime Strategy Group	3	2	5	31	14%
Criminal Intelligence Section	1	0	1	2	33%
District Crime	0	1	1	1	50%
Organised Crime Unit	1	5	6	10	38%
Patrol and Response	2	0	2	0	100%
Section	0	3	3	0	100%
Total	17	74	91	154	37%

CIB: Criminal Investigation Branch.

Source of raw data: New Zealand Police.

- 2.156 In December 2008, in the Adult Sexual Assault Policy Implementation Review, the Police recommended that a “reserves pool should be maintained to ensure [Adult Sexual Assault Investigation] 5 day training spaces are not wasted through late withdrawals”. We support such an approach.
- 2.157 At the rate of progress to date, it will be some time before all of the staff who investigate adult sexual assault complaints have attended the training course.
- 2.158 We also note that the Commission’s expectation was that the skills of officers involved in adult sexual assault investigations would continue to increase. Therefore, even when all of the relevant staff have been through the current adult sexual assault investigation training course, recommendation R18 will not have been fully completed until the Police have planned for continuing increases in the

skills of police officers involved in adult sexual assault investigations. One of our interviewees acknowledged that, even at this stage, there could be currency issues with the training and that a refresher might be needed.

Consistent levels of service

- 2.159 We decided that we would not directly contact adult sexual assault complainants. Instead, we spoke with an umbrella group of agencies that provide specialist support services to sexual assault complainants.
- 2.160 As part of our audit, we met with members of Te Ohaaki a Hine – National Network for Ending Sexual Violence Together (TOAH-NNEST). The information we have obtained through our discussions with TOAH-NNEST includes individual perceptions. This information is important because perceptions influence people's behaviour and their expectations of, interactions with, and confidence in, the Police.
- 2.161 We were told that there is wide variation in complainants' experiences of the Police and that this largely reflects whether the police officers have been trained adequately, and the varying abilities, attitudes, and commitment of the police officers involved. We were also told that as well as this variation within Police districts, there is also considerable variation in police officers' attitudes and service to complainants between Police districts.
- 2.162 TOAH-NNEST told us that there are some excellent police officers doing great work in investigating adult sexual assault complaints. They also told us about a number of recent examples where complainants have had bad experiences with the Police and this, in TOAH-NNEST's view, has led to further victimisation of the complainants.
- 2.163 In our view, such large variations in complainants' experiences would be reduced if the ASA Investigation Guidelines were followed, investigators were trained, and training was effective.

Citizens' satisfaction survey

- 2.164 The Police carry out an annual citizens' satisfaction survey of people who have had contact with the Police in the previous six months. In 2008/09, 9821 people were interviewed. The survey included a question about why people contacted the Police. The prompts for responses include the option of "An assault (including sexual)", but the Police told us that the survey sample includes very few responses from victims of a sexual assault.

- 2.165 The survey findings suggest that the experiences of people who had contact with the Police about an assault are not consistent, and – compared with others who had contact with the Police on other matters – their experiences are generally more negative. In our view, all people in contact with the Police should be able to expect and receive consistent service from the Police.

Generic investigative interviewing

- 2.166 Separate from the specialist adult sexual assault investigation training, the Police have four levels of training available in specialist interviewing. The third level covers sexual assault and police officers trained to this level should, ideally, be involved with interviewing the victims of a sexual assault. The fourth level is a specialist advisory level.
- 2.167 The Police's December 2008 review of the implementation of the ASA Investigation Guidelines noted that ideally all adult sexual assault interviews should be conducted by staff trained to level three (and workloads allocated accordingly). We have not sought quantitative information on the extent to which this ideal is being met, but we were told that the Police do not yet have dedicated specialist interviewers or enough interviewers trained to level three. The Police also told us that good investigative interviewing can save court time and file preparation time.
- 2.168 One of the barriers to better interviewing is the lack of suitable facilities for interviewing victims and witnesses. We were told that police stations are generally designed for interviewing alleged offenders rather than victims or witnesses. We were also told that there are financial barriers to having more suitable facilities available.
- 2.169 Through the December 2008 review of adult sexual assault investigations, the Police have recommended that interviewers trained to level three (regardless of the nature of the interview) and other staff working predominantly on adult sexual assault cases should have a scheduled visit with a psychological service every six months. This is for the well-being of the staff involved. In our view, this is a positive step that the Police have taken.

Initial complaint action

- 2.170 The Police also train staff in the initial action to take when receiving an adult sexual assault complaint. This training is aimed at watchhouse, reception, communication centre, and frontline staff who may be the first people to have contact with a complainant. The training is part of the training for recruits and

part of the annual mandatory training. The Police's review of this training, as part of the review in December 2008, concluded that the training:

- *varies in length and quality of training delivery*
- *should be monitored to identify competency of trainer and ensure value is obtained by attendees*
- *should be delivered to **all** watchhouse and relevant frontline staff.*

Reviews of training

- 2.171 The same review recommended that:
- ... a review of all [adult sexual assault-related] training should be conducted to determine whether it is relevant, necessary and achieves outcomes.*
- 2.172 We agree that such a review would be beneficial because of the:
- apparent ongoing disruption of scheduled training by operational priorities and annual leave; and
 - the Police's review of the implementation of the Adult Sexual Assault Investigation Policy, which raised questions about the quality of training.
- 2.173 In November 2009, the Police conducted a review of district training. The review included seeking feedback from focus groups about all training (not just adult sexual assault investigation training). The Police report that investigative interviewing and adult sexual assault investigation were identified as good training experiences.
- 2.174 We encourage the Police to conduct a review of all training, as recommended by the Police's Organisational Assurance Group in November 2009, to determine whether the training is relevant, necessary, and achieves the expected outcomes. The review should include adult sexual assault investigation training and initial complaint action training.

Summary

- 2.175 The number of police officers who have participated in adult sexual assault investigation training continues to increase but not all staff involved in adult sexual assault investigations have received the training. The Police do not have any specific plans for periodically measuring or assessing complainants' experiences beyond the citizens' satisfaction survey, nor any plans for continuing to increase the skills of staff involved in adult sexual assault investigations.

Recommendation 10

We recommend that the New Zealand Police devise an approach for ongoing skills development in adult sexual assault investigations beyond the life of the current adult sexual assault investigation training course.

Commission of Inquiry's recommendation R19

New Zealand Police should initiate cooperative action with the relevant Government agencies to seek more consistent Government funding for the support groups involved in assisting the investigation of sexual assault complaints by assisting and supporting complainants.

Our assessment: Not yet completed by the Police.

- 2.176 The Police have identified three types of support that should be available to adult sexual assault complainants:
- crisis support;
 - the Sexual Abuse Assessment and Treatment Service; and
 - victim safety and offender accountability support.
- 2.177 The three types of support rely on co-operative relationships with support agencies, and collectively are called the “tripartite response”.

Crisis support

- 2.178 Support for adult sexual assault complainants is provided by specialist providers. Victim Support provides support when specialist providers, such as Rape Crisis, are not available. (In 2006, the Police estimated that specialist providers were not available in about a third of cases.) Victim Support is a community organisation, present in more than 70 locations, that supports people affected by crime and other trauma. It is an independent charitable trust that works closely with the Police, but it is not a provider of specialist adult sexual assault support services.
- 2.179 In one of the provincial centres we visited, the Police call Rape Crisis for every complaint of adult sexual assault. In another of the centres we visited, there is no specialist support service available and complainants receive support from Victim Support instead.

Sexual Abuse Assessment and Treatment Service

- 2.180 The Sexual Abuse Assessment and Treatment Service (SAATS) is a medical forensic service for all victims of sexual abuse (women, men, children, and adolescents). It provides triage, assessment, treatment, and referral services. The service is available irrespective of whether the person has chosen to make a complaint of sexual assault to the Police or not.
- 2.181 District health boards have contracts with the providers of SAATS services. The services are provided by specially trained doctors, nurses, and paediatricians who belong to an incorporated society – Doctors for Sexual Abuse Care Incorporated (DSAC). DSAC is also a member of TOAH-NNEST.

- 2.182 The Police told us that they participated in the development of the SAATS model from its beginning. Specifically:

In late 2006, Police Commissioner Broad met with the CEO's [sic] of [the Accident Compensation Corporation] and [the Ministry of Health] and from that meeting it was decided that [the Accident Compensation Corporation] would lead a project to develop a sustainable funding model, thereafter named SAATS. A working group was set up with representatives from the three agencies as well as District Health Boards (DHBs) and subject matter experts from DSAC and Police Medical Officers (PMOs). A service model and service specifications were developed.

From this early date, [the Accident Compensation Corporation] (via Police) were meeting service costs with interim payments for Doctors providing the on-call service and Police looked to increase and make consistent the hourly rates for service provision.⁷

- 2.183 We were also told that, in one of the areas we visited, there are now good local rosters of facilities and DSAC doctors available, and this has reduced the need for victims to travel long distances.

Victim safety and offender accountability support

- 2.184 The Police are responsible for victim safety and offender accountability support, which means providing “safe” facilities for examining and interviewing complainants and ensuring that investigations are carried out properly. Two Police districts, Auckland and Counties Manukau, have dedicated adult sexual assault investigation teams. In all other districts, generalist Criminal Investigation Branch investigators carry out the investigations into adult sexual assault complaints.
- 2.185 The tripartite response is still relatively new. Since November 2008, district commanders have had to ensure that local agreements are in place outlining the relationship between local tripartite partners.

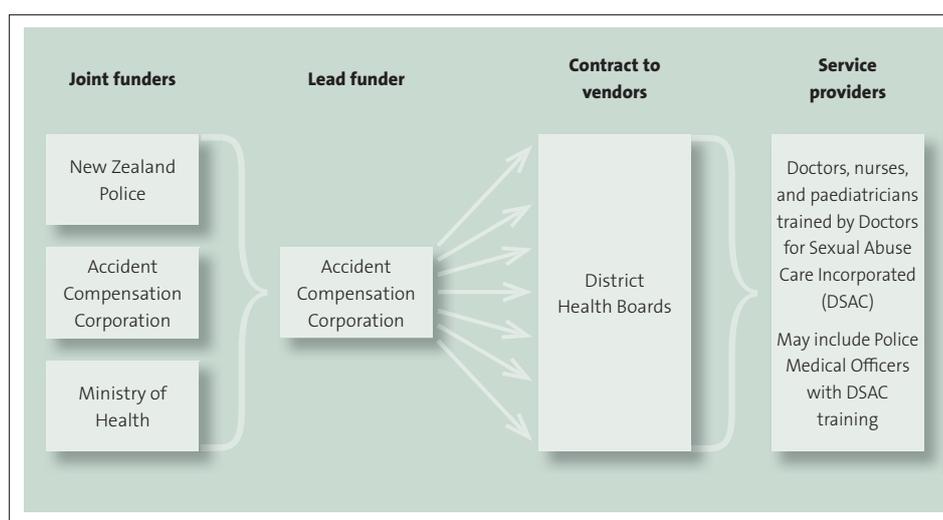
Funding

- 2.186 In July 2009, TOAH-NNEST, the Government's partner in the Taskforce for Action on Sexual Violence (the Taskforce), recommended to the Minister of Justice that dedicated resources should be available specifically targeted at activity to better prevent and respond to sexual violence. Developing sustainable funding models is a priority for TOAH-NNEST. The Government's response to the Taskforce's recommendations (set out in *Te Toiora Mata Tauherenga Report of the Taskforce for Action on Sexual Violence*) was not available at the time of our audit fieldwork. The Commissioner of Police was a member of the Taskforce.

⁷ New Zealand Police (May 2010), *Sexual Abuse Assessment and Treatment Service – An Overview*.

- 2.187 SAATS services are jointly funded by the Police, the Accident Compensation Corporation, and the Ministry of Health (see Figure 4).

Figure 4
Funding model for Sexual Abuse Assessment and Treatment Service



- 2.188 The Police meet a proportion of SAATS fees through funding from Police National Headquarters. Police districts will pay for medical examination kits, deposition writing, and other aspects of SAATS services, as agreed in local service level agreements. There is, therefore, the potential for some geographic variation in the arrangements in place and the services that are available.
- 2.189 SAATS does not fund crisis support.

Summary

- 2.190 The Police participate in a “tripartite” response to provide support services for adult sexual assault complainants. The Police contribute funding for SAATS services. This does not include funding for crisis support services. Specialist crisis support services are not yet available in all regions. Funding for specialist crisis support services depends, to an extent, on the Government’s response to *Te Toiora Mata Tauherenga Report of the Taskforce for Action on Sexual Violence*.

Commission of Inquiry's recommendation R20

In relation to investigations of sexual assault complaints against police officers or police associates, New Zealand Police should have in place systems that: verify that actual police practices in investigating complaints comply with the relevant standards and procedures; ensure the consistency of such practice across the country, for instance in the supervision of smaller and rural stations; identify the required remedial action where practice fails to comply with relevant standards; monitor police officers' knowledge and understanding of the relevant standards and procedures.

Our assessment: Not yet completed by the Police.

- 2.191 We described the processes the Police intend to use to monitor the implementation of the ASA Investigation Guidelines in our assessment of the Police's progress against recommendation R9.
- 2.192 The Police told us that, in their view, complaint investigations are open to scrutiny through the file review processes.
- 2.193 The file review processes do not specifically focus on sexual assault complaints against police members or associates, and do not comprehensively address the Commission's expectations about the systems the Police would have in place.
- 2.194 The Police told us that, for serious sexual assault complaints, there is the potential for both criminal and Code of Conduct investigations.

Summary

- 2.195 The Police have taken some action to assess aspects of investigations into sexual assault complaints, but have not specifically focused on sexual assault complaints against police officers. There is further work to do in relation to assessing, verifying, and monitoring whether the relevant standards and procedures are being adequately followed, and officers' knowledge and understanding of them.

Commission of Inquiry's recommendation R33

Those provisions of the Police Regulations 1992 that establish the disciplinary tribunal system should be revoked as soon as possible to enable a more efficient system to come into force.

Our assessment: Completed by the Police.

- 2.196 An amendment to the Police Regulations 1992 came into force on 1 February 2008. Before this amendment, Police tribunals were court hearings that tended to be adversarial. The decisions of the tribunal tended to hinder the Commissioner's ability to dismiss Police staff.
- 2.197 Figure 5 provides a summary of the disciplinary arrangements under the previous tribunal system.

Figure 5 Discipline regime from 12 March 1992 until 1 February 2008

From March 1992 until February 2008, the legislative regime for internal police discipline was very formal. The Police Act 1958 and the Police Regulations 1992 regulated the internal discipline proceedings for sworn police officers.

The Police Regulations listed 42 disciplinary offences that sworn police officers could be charged with. The offences ranged from being intoxicated while on duty, to treating prisoners harshly, to being late for parade.

When an officer was alleged to have carried out some wrongdoing, the Police would investigate. If the investigation found that there was substance to the allegation of wrongdoing, the officer was advised that a report of the alleged offence would be made to the region commander or district commander. The officer had to be given formal written advice of the charge and the summary of facts of the charge. The officer was then required to plead to the charge.

If the officer chose to plead guilty, the charge would be dealt with without a tribunal hearing. The prosecutor and officer could make submissions to the tribunal about an appropriate penalty. The tribunal then made a report of its findings to the Commissioner, and sent submissions about a penalty to the Commissioner. The Commissioner then decided on the penalty.

The penalty could include: a reduction in rank; a reduction in seniority by any specified number of years; a reduction in pay; or a fine not exceeding \$500. The Commissioner could also order the officer to pay part or all of the costs of the inquiry.

If the officer chose to plead not guilty, then the charge was heard by a tribunal appointed by the Commissioner. The tribunal used procedures as close as possible to those used by the District Court when it heard criminal cases. Witnesses and evidence were formally presented and both parties had the ability to examine, cross-examine, and re-examine witnesses. The evidence was recorded, and both parties could make submissions.

The tribunal then reported its findings to the Commissioner, who decided on the penalty if the charge was proved. The Commissioner could, at his or her discretion, grant a rehearing of any charge.

Summary

- 2.198 The previous disciplinary tribunal system has been disestablished. A new disciplinary system has been put in place (see recommendation R34).

Commission of Inquiry's recommendation R34

New Zealand Police should implement a best practice State sector disciplinary system based on a code of conduct in keeping with the principles of fairness and natural justice as part of the employment relationship.

Our assessment: Not yet completed by the Police.

- 2.199 A disciplinary system based on a Code of Conduct has been put in place. The initial arrangements came into place on 1 February 2008. These were revised when the Policing Act 2008 came into effect from 1 October 2008. The Police have noted that the disciplinary system is now a business-as-usual activity.
- 2.200 A summary of the disciplinary arrangements since 1 February 2008 is provided in Figures 6 and 7.

Figure 6**Discipline regime from 1 February 2008 until 1 October 2008**

The Police Regulations 1992 were amended by the Police Amendment Regulations 2007. The amended Regulations changed the Police's internal discipline regime, including providing for the issue of a single Code of Conduct for all Police staff, and a single system for dealing with alleged misconduct. Under the previous Regulations, the inquiry process did not apply to non-sworn members of the Police.

Under the amended Regulations, after a preliminary investigation of the conduct of a Police staff member, if the Commissioner considered that the alleged conduct should be investigated then the Commissioner decided whether the conduct should be either:

- dealt with as possible unsatisfactory performance; or
- the subject of a disciplinary hearing.

Under the amended Regulations, a disciplinary hearing was carried out by one or more people appointed by the Commissioner. Disciplinary hearings were treated as inquiries carried out for the sole purpose of establishing the facts. The hearings were less formal than the previous tribunal hearings, but they were still required to comply with the principles of natural justice.

After the hearing, the person or people appointed by the Commissioner reported their findings to the Commissioner. If the Commissioner was satisfied that the conduct amounted to misconduct, he or she could impose a penalty (including dismissal). The amended Regulations also enabled the Commissioner to deal with conduct that did not amount to misconduct as unsatisfactory performance. The amended Regulations required the Commissioner to have in place policies on unsatisfactory performance and procedures for determining what it was and how to address it.

The amended Regulations also included a requirement for the Commissioner to prescribe a Code of Conduct for all members of the Police.

Figure 7**Discipline regime from 1 October 2008 until the present**

The Policing Act 2008 came into effect on 1 October 2008. It repealed the Police Act 1958 and revoked the Police Regulations 1992 (as amended in January 2008). The Policing Act was designed to better align the Police's human resources arrangements with the mainstream employment environment.

The Policing Act included the requirement for the Commissioner to prescribe a Code of Conduct. The Policing Act created a duty for all Police employees to conduct themselves in accordance with the Code. The Explanatory Note to the Bill stated that it was intended that breaches of the Code of Conduct could be dealt with as disciplinary matters.

One of the key changes was that the Employment Relations Act 2000 was deemed to apply to all members of the Police (it had not previously applied). Therefore, discipline issues were to be treated in the same way as they would for any other person subject to the Employment Relations Act.

Section 57 of the Policing Act provided that certain privacy principles in the Privacy Act 1993 did not apply when the Commissioner was assessing the suitability of a person for employment with the Police. These were principle 2 (that personal information must be collected from the individual to whom the information relates), principle 3 (the steps to be taken when collecting personal information for the individual to whom the information relates), and principle 10 (that limits the use of personal information for a purpose other than the purpose for which it was obtained).

It was unclear whether section 57 applied only when a person was applying for employment or whether it would continue to apply (that is, once a person was employed, assessing their suitability for ongoing employment).

- 2.201 We have been provided with examples of seven serious misconduct and five misconduct cases that have been dealt with under the disciplinary regime in place since October 2008. All of the serious misconduct cases resulted in the staff member resigning before or after a disciplinary hearing.
- 2.202 The information and feedback we have received indicates that the disciplinary system based on the Code of Conduct is generally working. However, we await with interest the findings of further work commissioned by the State Services Commission. This further work will examine whether the disciplinary system is best practice for the state sector.

Summary

- 2.203 The Police have implemented a disciplinary system based on the Code of Conduct. The State Services Commission has commissioned further work to determine whether the system is consistent with best practice in the state sector. The information and feedback we have received indicates that the disciplinary system based on the Code of Conduct is working.

Commission of Inquiry's recommendation R35

The new disciplinary system should allow independent investigation of alleged misconduct where necessary or appropriate (in accordance with sections 5A and 12 of the Police Act 1958) but should not include the use of a formal disciplinary tribunal.

Our assessment: Not yet completed by the Police.

- 2.204 Under the Police's draft Report and Be Protected (Safe Reporting) Policy, the National Manager, Professional Standards is responsible for co-ordinating the appointment of investigators to look into allegations of misconduct or unlawful activity reported internally under that policy. We were told that, in practice, it is the area or district commander who selects or approves the investigator. The Police website also states this.
- 2.205 The Police's Investigations of Complaints and Incidents Policy notes that when investigating allegations of serious misconduct that might be both a criminal and an employment matter, it is good practice to have the criminal and employment matters investigated by different investigators.
- 2.206 The Police's Independence of Investigations (Safe Processes) Policy prohibits supervisors investigating allegations of sexual or serious misconduct by employees under their direct supervision.
- 2.207 The Commissioner of Police told us that, in a few instances, he has had to intervene to ensure the independence of an investigator. Ensuring independence is particularly challenging in small places with relatively few police staff. We are

pleased that the importance of independent investigation is reinforced at this most senior level.

- 2.208 Where independent investigators from outside a Police district investigate allegations, they are responsible to the district commander or service centre manager in whose district or service centre the investigation is occurring.
- 2.209 The Police told us that they have six external employment law or employment relations practitioners who have been engaged to carry out disciplinary hearings for matters of serious misconduct. At least one of these providers is a Queens Counsel. We accept that it is appropriate to have a greater degree of independence for more serious cases and appreciate that doing so can involve significant financial resources.
- 2.210 We encourage the Police to identify some guiding principles or equivalent to ensure that a clear and consistent practice is followed when an external independent investigation is necessary or appropriate.

Summary

- 2.211 The new disciplinary system allows for independent investigations of alleged misconduct. Having a clear and consistent understanding of when independent investigations of misconduct are necessary or appropriate is needed to meet the requirements of recommendation R35. At the time of our audit, this decision relied on an individual's judgement.

Commission of Inquiry's recommendation R36

New Zealand Police should ensure that the human resource and professional standards functions are fully integrated in all aspects of their operations and systems.

Our assessment: Not yet completed by the Police.

- 2.212 Under the previous organisational arrangements, there was no connection between the staff who dealt with breaches of professional standards and the human resources staff. The Police's human resources and professional standards functions have been integrated structurally at Police National Headquarters.
- 2.213 Under the arrangement now in place, professional standards staff have a direct reporting line to the General Manager Human Resources.
- 2.214 The State Services Commission noted as part of its review of the Police's change management process that "significant effort" had been put into "integrating HR and Professional Standards" functions at Police National Headquarters, including changes to work flows.

Arrangements in Police districts

- 2.215 We saw a mixture of arrangements within districts. In one district, the roles of the employment practices manager and professional standards manager had been combined into a single role. In another district, the professional standards manager had just been appointed. In this district, it appeared that the professional standards, employment practices, and human resources managers worked very closely together. We were also told about professional standards managers working closely across areas and districts.
- 2.216 The employment practice manager's role is to provide support and advice to managers carrying out performance management or disciplinary processes. In its review work, the State Services Commission noted that it had received very positive feedback on the employment practice manager's role. This included superintendents and inspectors telling the State Services Commission that they found the employment practice manager roles "invaluable in ensuring even-handedness of approach and for providing insight into employment-based best practice". We also received some positive feedback about working with an employment practice manager. The Police have recruited employment practice managers to manage performance and disciplinary procedures in each district.

Summary

- 2.217 The Police have taken significant steps to better integrate the human resource and professional standards functions, but it is still too early to know whether all the relevant operations and systems are fully integrated, particularly at the district level.

Commission of Inquiry's recommendation R37

The Commissioner of Police should invite the State Services Commissioner to review the police approach to performance management and discipline to ensure their systems and processes are adequate, standardised, and managed to a standard that is consistent with best practice in the public sector.

Our assessment: Not yet completed by the Police.

- 2.218 The Police have invited the State Services Commissioner to review the Police's approach to performance management and discipline. The Police see this as an ongoing programme of work, and terms of reference have been agreed for the next 3-5 years.
- 2.219 Our findings to date indicate that the Police still have some progress to make to fully meet the Commission's expectation that the Police's performance management and disciplinary systems and processes are adequate, standardised, and managed to a standard that is consistent with best practice in the public sector.

Summary

- 2.220 The Police have invited the State Services Commissioner to review the police approach to performance management and discipline. This review is ongoing.

Commission of Inquiry's recommendation R38

A code of conduct for sworn police staff should be implemented as a matter of urgency. Subsequently, the existing code of conduct for non-sworn staff should be brought into line with the new code for sworn members.

Our assessment: Completed by the Police.

- 2.221 A Code of Conduct applying to all Police employees, both sworn and non-sworn staff, has been implemented. The Code is based around a collection of value-based principles for guiding behaviour. These are:
- honesty and integrity;
 - loyalty, good faith, and professionalism;
 - fairness and impartiality;
 - respect for people and property; and
 - confidentiality.
- 2.222 The Code of Conduct was introduced on 1 February 2008 and was enforceable from 1 October 2008 with the coming into force of the Policing Act 2008. We were told 22,000 copies of the Code were printed. There are about 12,000 staff within the Police.
- 2.223 Since then, 8455 Police staff have signed the Code of Conduct, and 6973 have attended Code of Conduct Familiarisation training. Under the Policing Act 2008, all Police staff must comply with the Code of Conduct, regardless of whether they have signed it.
- 2.224 A national implementation plan was prepared to introduce the Code of Conduct. (The plan also included the implementation of a disciplinary system for all employees and the appointment of employment practice managers in each district.) The implementation plan for the Code of Conduct stated that the measure of success and outcomes sought were:
- *Consistently high standards of behaviour of Police employees both inside and outside of the workplace.*
 - *Long term trend of a reduction in the number of personal grievances filed by staff against Police.*
 - *Broader use of Performance Improvement Plans for managing behaviour issues in a more efficient, appropriate, impartial and timely manner.*
 - *Minor disciplinary issues dealt with at an early stage before they become serious.*

- *Reduction in the length of time taken to deal with serious misconduct issues.*
- *Modern employment framework which is consistent with both public and private sector good practice.*
- *Fairer treatment of employees subject to disciplinary processes, giving rise to fewer grievances as a result of applying disciplinary procedures.*

2.225 Information on active grievances is reported to the weekly Police Executive meeting. We also note that, in one of the districts we visited, the number of personal grievances filed annually had fallen from 10 in 2005 to one in 2009.

2.226 We acknowledge that, at the time of our first monitoring report, the Police's Organisational Assurance Group was planning some related assurance work about the Police's progress. Although this work had not been completed at the time of our audit fieldwork, the Police expected to finish it before we published our report. Initial work by the Organisational Assurance Group found that:

... staff have more faith that issues can be dealt with through the new [Code of Conduct] process where they weren't effectively dealt with in the past.

2.227 During our audit fieldwork, we received positive feedback from a range of stakeholders about the Code of Conduct and its application.

Summary

2.228 The Police have prepared and implemented a Code of Conduct in a timely manner. The feedback we have received about the Code of Conduct and its application has been positive and suggests that the Code is being effectively implemented.

Commission of Inquiry's recommendation R39

New Zealand Police should amend its Sexual Harassment Policy to include a requirement that any mediated resolution of a complaint of sexual harassment be finalised in writing and signed by both parties.

Our assessment: Completed by the Police.

2.229 The Police told us that, in their view, simply complying with recommendation R39 will not stop sexual harassment behaviour from recurring. The Police told us that it is their practice to start a Code of Conduct investigation for cases of alleged sexual harassment. We acknowledge that this is an appropriate practice, given the Police's obligations to provide a safe workplace.

2.230 At the time of our audit fieldwork, the Police provided us with a "final draft" of a Discrimination and Harassment Policy. The draft policy did not specifically refer to mediated resolution of complaints of sexual harassment, but allowed for "facilitated dialogue". There was a requirement for an agreed outcome of the

“facilitated dialogue” to be recorded in writing and signed by the parties and the facilitator.

- 2.231 Additionally, the draft policy noted that “advice of the outcome of any complaint must be provided to the Equity and Diversity Manager [in Police National Headquarters] for recording in the database”.
- 2.232 The Police have since told us that the policy has been finalised with formatting changes only.
- 2.233 Mediation is a form of facilitated resolution. We requested examples of recent mediated sexual harassment cases from the Police and were told that the Police’s Employee Relations team had received notification of one mediation but there was no signed record.
- 2.234 Independent mediation between two employees gives the complainant an opportunity to reach an outcome that is satisfactory to them. It is important that complainants have this opportunity because they are not party to the outcome of a Code of Conduct investigation.
- 2.235 The Police also have an Employment Relationship Problem Policy. This allows for the possibility of mediation between an employer and employee using the Department of Labour’s mediation service.

Summary

- 2.236 The Police have not amended their Sexual Harassment Policy to include a requirement that any mediated resolution of a complaint of sexual harassment be finalised in writing and signed by both parties – but they have included a requirement for “facilitated dialogue”. Mediation is a form of facilitated resolution. It is important that the Police’s interpretation and application of “facilitated dialogue” enables mediation between two employees, where appropriate, as well as a Code of Conduct investigation.

Commission of Inquiry's recommendation R40

New Zealand Police should develop standards, policies, and guidelines on inappropriate sexual conduct towards, and the forming of sexual relationships with, members of the public. These should be incorporated into all codes of conduct and relevant policy and training materials. The standards, policies, and guidelines should be developed with the assistance of an external expert in professional ethics and should: specify actions and types of behaviour of a sexual nature that are inappropriate or unprofessional; prohibit members of police from entering any relationship of a sexual nature with a person over whom they are in a position of authority or where there is a power differential; provide guidance to members and their supervisors about how to handle concerns about a possible or developing relationship that may be inappropriate; emphasise the ethical dimensions of sexual conduct, including the need for police officers to avoid bringing the police into disrepute through their private activities.

Our assessment: Not yet completed by the Police.

- 2.237 Among other things, the Code of Conduct states that all Police employees have a responsibility to act with fairness and impartially in all dealings with their colleagues and the public and be seen to do so, avoiding any potential or perceived conflicts of interest. This includes a responsibility to:
- ... avoid situations that might compromise, directly or indirectly, their impartiality or otherwise calls into question an employee's ability to deal with a matter in a fair and unbiased manner.*
- 2.238 The Police have a Professional Distance Policy, dated December 2008, that describes how this expectation applies to relationships between Police employees and members of the public, and between Police employees.
- 2.239 The Professional Distance Policy defines personal relationships as including, but not limited to:
- a sexual relationship;
 - conduct or contact that has an intimate as opposed to professional intention; and
 - family members.
- 2.240 An illustrative, but not exhaustive, list of situations where personal relationships are prohibited is provided in the policy (but not in the Code of Conduct). This is on the assumption that in these situations there is also some form of professional relationship with the Police. The situations include personal relationships with:
- complainants where the employee is dealing with a complainant in a professional capacity and the power relationship could be perceived to influence decision making;
 - offenders when they have current charges and/or a known criminal history;
 - witnesses and their family members involved in a matter the employee is dealing with in a professional capacity where the power relationship could be perceived to influence decision making;

- informants;
- vulnerable persons where a duty of care exists; and
- any person in custody.

2.241 Although the Professional Distance Policy does not specifically list the actions and type of behaviour of a sexual nature that are inappropriate or unprofessional, it does clarify that a sexual relationship is inappropriate when a professional relationship also exists.

2.242 The Professional Distance Policy is available on the Police Instructions Intranet site. It is therefore available to all staff with access to the Police Intranet.

Breaches of the Professional Distance Policy

2.243 The Police told us that they treat breaches of the Professional Distance Policy as breaches of the Code of Conduct.

2.244 We examined the 54 cases of serious misconduct provided to us as those reported to the Commissioner of Police since 2007. Although we did not have the full circumstances of the cases, and the Professional Distance Policy might not have been in place at the time, 12 (22%) of the cases appeared to involve a breach of the professional distance requirements.

2.245 We were pleased to see that these 54 cases were treated as serious misconduct. At the time of our audit fieldwork, the cases were in various stages of completion. Some were still under investigation, and in others the staff member involved had resigned.

Summary

2.246 The Police have a Professional Distance Policy that sets out the prohibitions on inappropriate sexual relationships. These prohibitions will need to be incorporated within the Code of Conduct to meet the Commission's expectations.

Commission of Inquiry's recommendation R41

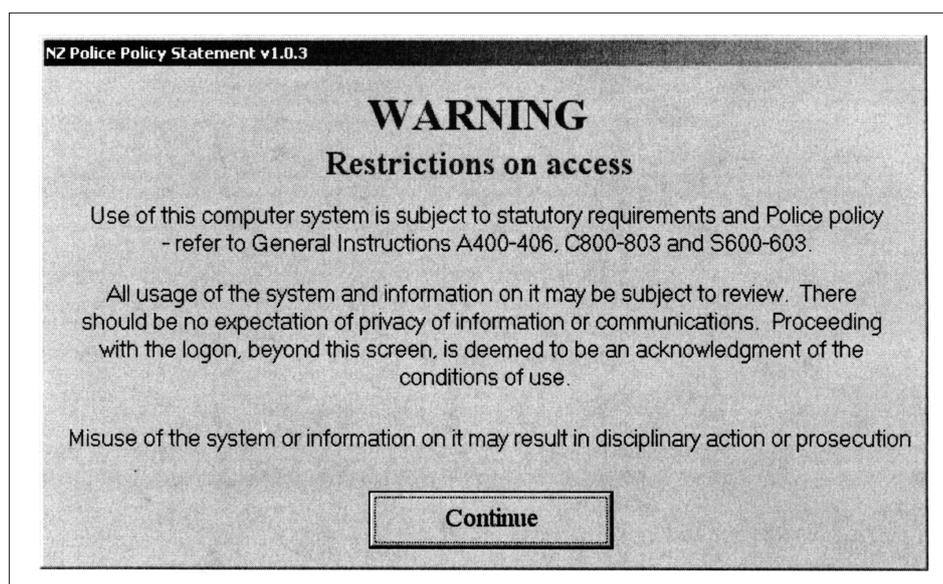
Directions given by New Zealand Police management on what constitutes inappropriate use of police email and the Internet should not allow for any individual interpretation of appropriateness by police officers.

Our assessment: Completed by the Police.

- 2.247 The Police have clear expectations that staff will use information technology appropriately. These expectations are not limited to the Internet but apply to all of the Police's information technology and the information recorded within it. The expectations are outlined in the Police's Acceptable Use of Technology, Resources and Information Policy and the Code of Conduct. The Acceptable Use of Technology, Resources and Information Policy came into effect on 21 June 2006.⁸
- 2.248 The Acceptable Use of Technology, Resources and Information Policy notes that Internet access is subject to:
- *restrictions on types of certain sites, including web mail, online auctions, and those which are presumed to contain inappropriate or objectionable material*
 - *the logging of URLs (Internet addresses) of all sites visited by every user, and the times and duration of such access*
 - *review of the content on sites visited, and material downloaded or uploaded*
 - *the generation of alerts if a user attempts to access prohibited sites.*
- 2.249 The Police told us that these measures have enabled them to identify and discipline staff who have not used information technology appropriately.
- 2.250 All recruits are required to sign an acceptance form indicating that they have read the Policy, and they receive training on acceptable use of information technology.
- 2.251 When accessing the Police's computer system, users are presented with a warning about the potential consequences of misusing the system and information within it. We have reproduced this warning in Figure 8.

⁸ We note that the Acceptable Use of Technology, Resources and Information Policy expired in 2007. The Police need to update this policy.

Figure 8
Warning displayed when accessing the New Zealand Police's computer system



Summary

- 2.252 Although guidance will always have some degree of potential for individual interpretation, the Police have clear expectations about what is appropriate and what is inappropriate use of the Internet and email. In our view, these provide enough guidance.

Commission of Inquiry's recommendation R42

New Zealand Police should introduce a requirement that all staff sign a document to confirm that they have read and understood the acceptable use policies for the Internet and email. These requirements should be fully explained to all recruits during their training.

Our assessment: Not yet completed by the Police.

- 2.253 All Police recruits – but not all staff – are required to sign an acceptance form stating that they have read the Police's Acceptable Use of Technology, Resources and Information Policy, and understand the terms and conditions stated in it. The recruits receive training on acceptable use of information technology.
- 2.254 All users of the Police's computer system are presented with a warning (see Figure 8) that lists the related general instructions. It also states that misusing the system or the information within it "may result in a disciplinary action or prosecution".

- 2.255 The Code of Conduct also includes the following examples of serious misconduct:
... sending or saving inappropriate or offensive emails and/or their attachments, or using the Internet of the Police computer system in breach of Police policy [and] using any Police databases for an unauthorised or personal purpose.
- 2.256 We have viewed performance and disciplinary records showing a degree of non-compliance with some of the Police's expectations about the use of technology. Ideally, non-compliance should be rare.

Summary

- 2.257 To access the Police's computer system, staff have to view a warning screen that lists the general instructions that describe the Police's expectations about technology use. There is still a level of non-compliance with the expectations in these documents. It is important that the Police continue to respond firmly to this behaviour when it occurs.
- 2.258 Police recruits are required to sign a document confirming that they have read and understood policies for acceptable use of the Internet and email. There is no such requirement for all staff.

Commission of Inquiry's recommendation R43

All police officers should be required to acknowledge that they have read and understood any changes to police computer use policies. These requirements should also be fully explained to all recruits during their training.

Our assessment: Not yet completed by the Police.

- 2.259 We did not find a specific requirement or associated policy or procedure relating to officers acknowledging that they have read and understood changes to the Police's computer use policies. The warning notice displayed before staff can access the computer system requires users to acknowledge that their use of the system is subject to policies and general instructions. It does not inform users when the policies have changed, or serve as a tool for users to acknowledge that they have read and understood any changes to the computer use policies.
- 2.260 Without a specific requirement, the I-learn tool for confirming comprehension of new policies might be used if the relevant business owner considered the changes to be critical (see our discussion about recommendation R11).
- 2.261 The Police have indicated that changes to the computer use policies would be considered as critical instructions.

Summary

- 2.262 The Police do not require police officers to acknowledge that they have read and understood any changes to the computer use policies (other than the warning screen acknowledgement shown in Figure 8). There is a process that could be used if the changes were considered critical, but there is much discretion in that decision.

Commission of Inquiry's recommendation R44

New Zealand Police managers should receive regular reports on the use of the Internet by their staff. This reporting requirement should be built into the early warning system that the police are developing (see recommendations R47, R48).

Our assessment: Not yet completed by the Police.

- 2.263 The Police routinely monitor how staff use the Internet and email. Each month, the Police also audit how the National Intelligence Application (NIA) is used by 50 randomly chosen staff. As well as the audit, the Police also check each month whether information about high profile members of the public or Police employees has been accessed without due cause.
- 2.264 The results of this monitoring and auditing are reported to the Police's Use of Information Steering Committee. The process allows the staff member to receive two email reminder notices about their Internet use before any escalation to their supervisor or human resources staff.
- 2.265 The Police's staff newsletter reported in December 2009 that, since the Code of Conduct came into force, 13 cases of unauthorised access to NIA had been treated as serious misconduct. Of those cases, eight employees had resigned.
- 2.266 We note that, in the minutes of a meeting of one Police district's ethics committee, there was a recorded intention that members of the ethics committee would continue to use NIA for purposes potentially inconsistent with the Acceptable Use of Technology, Resources and Information Policy. In our view, the minutes indicated that committee members were aware of the Police's policy but did not accept it. We consider any intention by staff to act in defiance of the Police's policy to be inappropriate behaviour – but even more so in this instance, because members of this committee are responsible for influencing ethical behaviour within the Police.

Summary

- 2.267 The Police routinely monitor staff Internet use. There are specific categories within IAPro to record Internet misuse. However, at the time of our audit, there was still work to be done to have this information routinely reported through IAPro and used to provide early warning of inappropriate behaviour.

Commission of Inquiry's recommendation R45

All New Zealand Police districts should implement a nationally consistent ethics training programme that all police officers are required to attend. Police officers should also be required to attend regular refresher courses on ethics.

Our assessment: Not yet completed by the Police.

- 2.268 As of mid-June 2009, 66% of staff had completed the Police's Contemporary Policing in New Zealand ethics training. The training covers discretion, ethics, and professionalism. The content of the training is nationally consistent. The Police told us that, by late July 2009, around 80% of staff had attended the training.
- 2.269 The training involves scenarios and a test called the SELF (withstand Scrutiny, Ensure compliance, Lawful decision and Fair decision) test, which police officers can use to help them evaluate their decisions before implementing them.
- 2.270 Recommendation R45 called for police officers to attend regular refresher courses on ethics. The Police told us that they propose to start ethics refresher training from 2010/11. They intend to review this training to determine how it might best be delivered in the future.
- 2.271 We accept that it is difficult to measure the "ethical capability" of an organisation ahead of observing the actual behaviour of individuals. But we encourage the Police to include complaints involving police members or associates as a topic in the Police's Contemporary Policing in New Zealand training.
- 2.272 We also note the important role that supervisors and managers play in the ongoing day-to-day training of police officers, including reinforcing what is taught in the formal ethics training. Standards of ethical behaviour can be reinforced or undermined by the workplace culture within a police's officer's team.
- 2.273 We encourage the Police to continue to track over time the number of upheld complaints against police officers, especially the complaints that are clearly of an ethical nature, after the implementation of the Contemporary Policing in New Zealand training and with the introduction of any proposed refresher training.

Summary

- 2.274 The Police have implemented nationally consistent training in ethics but have yet to determine how this might be delivered in the future, and not all staff have attended. The Police need to monitor, to the extent that this is possible, the effect of this training.

Commission of Inquiry's recommendation R46

New Zealand Police should ensure that the establishment of ethics committees is mandatory for all police districts. There should be a national set of guidelines to guide police districts on the purpose, operation, and membership of their ethics committees.

Our assessment: Not yet completed by the Police.

- 2.275 The Police published Ethics Committees Guidelines on the Police Instructions Intranet site on 27 March 2009. These make the establishment of district ethics committees compulsory.
- 2.276 The Ethics Committees Guidelines define the role of the ethics committees, and state that ethics committees are to:
- *reinforce messages contained in Police ethics training and contribute to ongoing training and education about ethics*
 - *provide a forum to raise and discuss difficult ethical issues facing Police in their day to day work*
 - *build awareness and sensitivity to ethical issues so that ethical issues are considered and addressed in all Police activity*
 - *alert management to incidents, issues or trends that may threaten Police integrity and reputation*
 - *advise on policies and guidelines (when requested)*
 - *assist individuals, managers and supervisors [to] meet their responsibilities for maintaining ethical standards.*
- 2.277 Ethics committees have to include members from a wide range of levels within the Police and an outside representative who has had experience in considering and dealing with ethical issues (unless there is good reason not to include such a person). Ethics committees are required to meet at least three times a year. They are also required to annually and anonymously survey staff who have referred matters to a committee, to assess the usefulness of the committee's feedback.

Our survey

- 2.278 We carried out a survey of the Police's ethics committees and how they were functioning.
- 2.279 The survey indicated that most committees formed late in 2009. Two had yet to hold their first meeting, and most were still at a very early stage of operating.
- 2.280 In our view, our survey findings indicate that there is a lot of work yet to do to have the committees complying with the Ethics Committees Guidelines and functioning in a way that allows them to meet their intended purpose.

- 2.281 Outside representation and external views on ethics committees are important. The Commission’s report considered it “imperative for such committees to have external, non-police members in order to ensure they obtain a wide perspective on the ethical issues being discussed.”
- 2.282 The responses to our survey indicated that the participation of outside representatives in the committees was limited. The Ethics Committees Guidelines say that “unavailability” is a good reason for not having an outside representative. We do not agree. It simply means that a different external person needs to be invited to participate.
- 2.283 Because most of the committees had only recently been formed, no annual surveys or other formal evaluations of their effectiveness had taken place.
- 2.284 We encourage the Police to monitor whether ethics committees are functioning as intended, are used effectively, and help the Police in “delivering high standards of ethical behaviour” in every district.

Summary

- 2.285 The Police have set up an ethics committee in each district and have written national guidelines about the membership, role, and function of these committees. The committees are newly formed and their effectiveness is yet to be tested.

Commission of Inquiry’s recommendation R47

New Zealand Police should implement a nationally mandated early warning system in order to identify staff demonstrating behaviour that does not meet acceptable standards and ensure such behaviour does not continue or escalate.

Our assessment: Not yet completed by the Police.

- 2.286 In our discussion of recommendation R8, we described the IAPro software that is the Police’s nationally mandated early warning system. We noted that it was still in the early stages of use. As well as the national system, some districts have local measures to identify employees whose behaviour could potentially result in complaints or misconduct.
- 2.287 In both of the districts we visited as part of our audit fieldwork, a local process was in place or being put in place to identify employees whose behaviour could potentially result in complaints or misconduct and affect the quality of policing, and provide early interventions to improve their performance. Similar work was taking place in at least two other districts.

2.288 This local process was informed by a number of potential early warning indicators (see Figure 9).

Figure 9

Potential early warning indicators of behaviour that could result in complaints or misconduct

1. Number of complaints or notifiable incidents in which that officer has been involved.
2. Number of Oleoresin Capsicum Spray usage instances.
3. Number of expressions of dissatisfaction in connection with Road Policing Offence Notices.
4. Numbers of speed camera notices incurred by the officer while on duty where the speed is more than 30kmph over the posted limit, and 11-29 kmph over the limit (but with no warning systems).
5. Number of vehicle crashes in which the officer has been the driver.
6. Number of presentations of a firearm.
7. Identifiable mandatory training shortfalls.
8. Number of complaint and/or disciplinary and expression of dissatisfactions issues not advised to the Manager Professional Standards (ie. known to supervisors, commanders and relevant managers)
9. Number of "Use of Force" situations and an assessment as to whether these are excessive in nature or quantity.
10. Number of assaults on the officer and an assessment as to whether these are excessive in quantity.
11. Number of instances of resisting or obstruction in which that officer was the officer resisted or obstructed and an assessment as to whether these are excessive in quantity.
12. Existing leave and TOIL (time off in lieu) holdings.
13. Sick leave history.
14. Sexual harassment complaints reported against the officer.
15. Other performance issues in relation to the officer.

Source: New Zealand Police.

2.289 Some of this information is already routinely collected through other mechanisms, for example, the use of force is recorded through incident notification data.

2.290 In our view, the use of any district early warning process should not detract from, be a substitute for, or undermine the full and effective use of a single national early warning system. At least some of the information would already be recorded in the national early warning system. It is important that the appropriate data can be accessed and used at a national level for appointments, performance management, and complaint investigation.

2.291 The Police need to be clearer about their expectations of the relationship between local and national early warning systems. This could be a topic to address in the Police's intended Early Intervention Policy.

Summary

- 2.292 A nationally mandated early warning system has been put in place but is still in its early stages of use. Some Police districts have local early warning systems. The Police need to be clearer about their expectations of the relationship between local and national early warning systems.

Commission of Inquiry's recommendation R48

The early warning system should ensure that all relevant information, sufficient to give a complete picture of an officer's full record of service, is captured in a single database, and is accessible to police managers and supervisors when making appointments and monitoring performance, as well as to complaint investigators when appropriate.

Our assessment: Not yet completed by the Police.

- 2.293 Because the national early warning system (IAPro) is in the early stages of its development, we were unable to ascertain the extent to which information in the system will be used by managers and supervisors when:
- making appointments;
 - monitoring performance; or
 - investigating complaints.
- 2.294 It is too early for us to judge whether the system contains enough relevant information to give a complete picture of a police officer's record of service. This is because relevance depends on who uses the information and what it is used for.

Summary

- 2.295 The early warning system is able to record a substantial amount of information about a police officer's record of alleged complaints, but use of the system is still in its very early stages.

Commission of Inquiry's recommendation R49

New Zealand Police should review its approach to performance management, including the training provided to supervisors and managers, the performance appraisal process and documentation, and the methods in place to ensure that the follow-up identified in the performance improvement plans actually occurs.

Our assessment: Not yet completed by the Police.

- 2.296 The Police have identified recommendation R49 as the "glue" ensuring adherence and compliance with many other recommendations, in particular those relating to performance management. The Police have also identified that meeting the intent of recommendation R49 is important for positive as well as negative performance by police officers.

Review by the State Services Commission

- 2.297 Two papers previously provided to the Police's Commission of Inquiry Steering Committee (since disbanded) were about the reform of the Police's performance management system. The first paper, informed by review work done by PricewaterhouseCoopers (engaged by the State Services Commission), identified that:
- ... Police needs to have a modern and effective performance management system that involves: regular feedback to staff (rather than annual one-off appraisals); sits within a positive performance culture – where staff seek feedback; in which supervisors are engaged – and have the necessary skills to manage performance; focuses not only on performance deficits but it is also a way to give positive feedback; and provides informational links to other key processes – such as forming the basis of a development approach to employee management.*
- 2.298 The second of the papers identified issues and problems with the current system, key design principles for a new approach, and priorities for reforming the performance management system. It noted that there were only weak links between individual performance and organisational performance processes (strategy planning, goal setting, and measurement):
- A fundamental problem is that the present system is compliance focussed and lacks strategic direction.*
- 2.299 The Police were proposing an electronic performance management regime as part of their 2009/10 Human Resources Business Plan. The system would integrate with other human resources information, such as leave management and training. Subsequent to our audit fieldwork, the Police have obtained an "e-performance" application and have started to train staff in its use.
- 2.300 We encourage the Police to progress a more integrated performance management regime. We note that the Police have recognised that having the "right" leaders with the "right" skills is critical to the success of any performance management initiative.
- 2.301 In January 2010, the State Services Commissioner issued a request for proposal for a third phase, which included reviewing the Police approach to performance management and disciplinary processes.
- 2.302 To date, the review work performed for the State Services Commissioner has found, among other things:
- ... a weak performance management culture within Police and ... a profound confusion between performance management and disciplinary processes.*

... a number of issues about the current performance management systems – lack of management confidence in providing negative feedback, lack of a developmental approach to good performance, an unusual competency rating system, and a bureaucratic approach.

2.303 In our view, these are fair and accurate observations given what we saw and were told during the fieldwork for both of our monitoring reports to date.

Our observations

2.304 Given the State Services Commissioner's and Police's own work, we did not replicate that work and review the Police's performance management, performance appraisal, and performance improvement planning systems in great depth.

2.305 However, during our audit fieldwork we did examine a small number of current performance appraisals, performance improvement plans, and disciplinary actions. Some of the performance assessments carried out in 2008/09 did not include all the relevant information about the individual in question. For example:

- the existence of a monthly performance plan and training support plan, or performance issues contained in a performance improvement plan, were not mentioned in the performance assessment;
- disciplinary warnings issued during the period of review (whether active or expired) were not mentioned in the performance assessment; and
- issues of potential misconduct that occurred during the period of review that might have raised questions about an individual's judgement were not mentioned in the performance assessment.

2.306 We do not have enough information to form a view about the appropriateness of the decisions made during the relevant performance assessments. Generally, however, a performance assessment is more meaningful if it includes all potentially relevant information about an individual during the period under review.

2.307 Instances of misconduct and disciplinary penalties are relevant to a performance assessment, especially when the assessment includes qualitative competencies such as judgement, professionalism, and leadership.

2.308 Our observations were reinforced by three of our interviewees, who told us that:
Negative stuff is kept out of performance appraisals so it doesn't affect your use of it in the future for job prospects.
Performance agreements – some got very good comments, but I can't see it as the same person.

I see it as my responsibility that any negative comments are dealt with prior. I use performance appraisals as a means for positive comment and keeping up with good progress and for job allocations in the future.

- 2.309 There is no longer any legal requirement to keep specific information out of personal files, or to keep disciplinary and performance information separate.
- 2.310 In our view, the information the Police choose to keep about staff members is no longer subject to any prescription in the Policing Act 2008 or its regulations. Requirements about the information to be kept would arise under legislation such as the Employment Relations Act 2000 and the Privacy Act 1993, as well as any case law.
- 2.311 We have considered whether potential misconduct occurring when a police officer is off duty should be recorded and/or dealt with as a disciplinary issue. This is ultimately a decision for the Police to make, case by case, and keeping in mind the desire for consistency of approach throughout the organisation. We note, however, that the Code of Conduct does enable the Police to address off-duty behaviour. We also note that the Police Investigations of Complaints and Incidents Policy states that “Police employees are expected to have higher standards of personal conduct than is expected in most other occupations.”

Off-duty behaviour

- 2.312 We saw records of two examples of off-duty behaviour by police officers that, in certain circumstances, might be considered unlawful. The Police used their discretion not to prosecute, which they could also do for any member of the public. We were pleased that these examples were brought to the attention of supervisory or management staff.
- 2.313 In our view, there would be merit in the Police ensuring that when one of their staff comes into contact with the Police exercising their law enforcement role and the Police are aware that the person is a police officer, the circumstances and decisions reached about that staff member are documented well enough so that an independent observer could ascertain that the staff member had not received any special treatment. We encourage the Police to do this.

Performance appraisals

- 2.314 In our first monitoring report, we noted that completing performance appraisals is important for the effective performance management and professional development of staff. We encouraged the Police to increase the completion rates, because at the time most of the Police’s service centres had average completion rates below 80%.

- 2.315 We are pleased by the latest performance appraisal completion rates reported by the Police. The completion rates have increased considerably since our first monitoring report. Most service centres and districts now have very high completion rates, and the overall completion rate reported by the Police was 98%. The Police have clearly given considerable attention to completing performance appraisals, including introducing arrangements for monitoring the completion rates as part of the regular reviews of district performance.
- 2.316 Although the Police have been able to report completion rates for performance appraisals, we have been told that summary information about other aspects of the performance and disciplinary process, such as the number of people with performance improvement plans, is not necessarily readily available.
- 2.317 The Police told us that there are significant cultural challenges in using performance appraisals meaningfully so that they are conducted in a free and frank manner. The Police believe that it can be difficult to provide officers with negative feedback given the high level of commitment and sacrifice involved in becoming police officers and carrying out their line of work. In our view, the Police need to resolve this conflict.
- 2.318 We are encouraged by the Police's commitment and their revised approach to training "first line" managers and non-commissioned officers in operational and people management skills, as outlined in the Police's *Statement of Intent 2009/10 – 2011/12*.

Summary

- 2.319 The Police's approach to performance management, appraisal, and improvement has been reviewed. There is room for the Police to improve the capability of supervisors and managers to effectively operate the Police's performance management, improvement, and appraisal systems. There is also a need for the Police to progress a more integrated performance management regime.

Recommendation 11

We recommend that the New Zealand Police increase the capability of supervisors and managers to effectively operate the performance management, improvement, and appraisal systems and, in particular, the capability of supervisors and managers to conduct meaningful performance appraisals.

Commission of Inquiry's recommendation R50

New Zealand Police should continue its efforts to increase the numbers of women and those from ethnic minority groups in the police force in order to promote a diverse organisational culture that reflects the community it serves and to enhance the effective and impartial investigation of complaints alleging sexual assault by members of the police or by associates of the police.

Our assessment: Not yet completed by the Police.

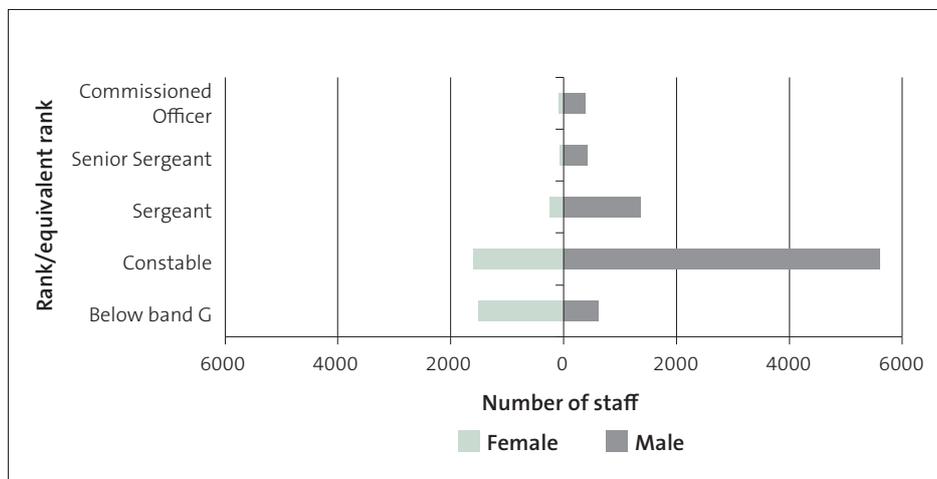
- 2.320 Several interviewees told us why it is important that the composition of the Police better matches the population that the Police serve. The reasons cited included that it:
- gives the Police organisation a wider range of experiences to draw on;
 - helps the Police to have the right contacts in the community; and
 - helps to build better partnerships and communication with communities.

Gender mix

- 2.321 There are many more men than women in the Police. The number and percentage of staff by rank and gender is shown in Figures 10 and 11.

Figure 10

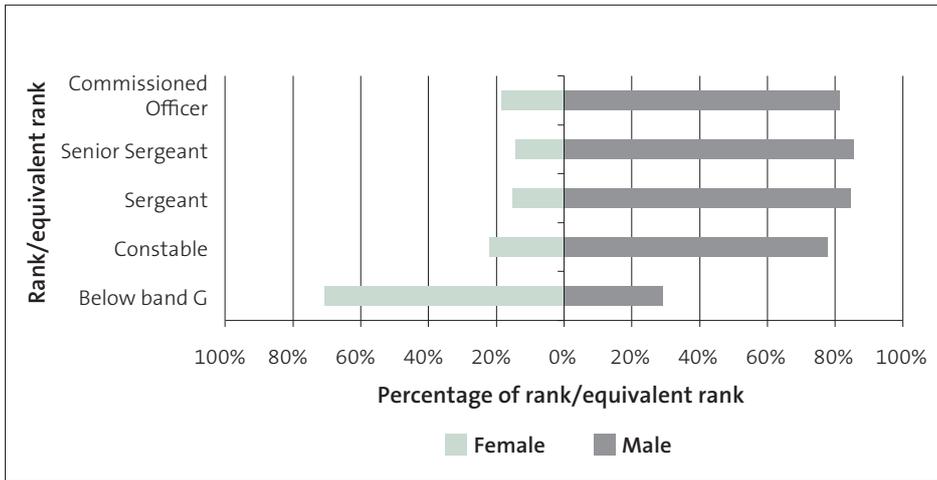
Number of staff by rank or rank-equivalent and gender, as at October 2009



Source of raw data: New Zealand Police.

Note: Staff below band G are administrative staff.

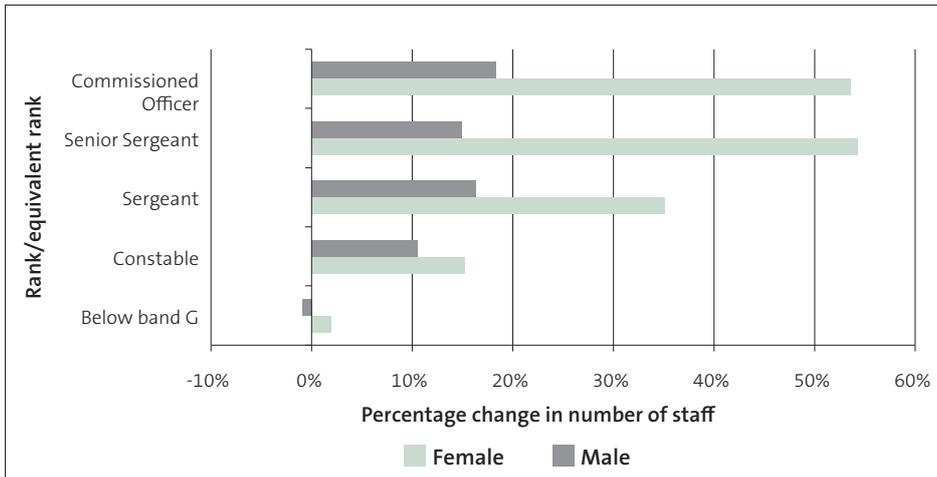
Figure 11
 Percentage of staff by rank or rank-equivalent and gender, as at October 2009



Source of raw data: New Zealand Police.
 Note: Staff below band G are administrative staff.

2.322 Since the Commission published its report in 2007, there have been positive changes in the number of women in the Police. In absolute terms, the changes are relatively small (an increase of 359 female staff), but the proportional changes have been substantially greater in all ranks. These increases are shown in Figure 12.

Figure 12
 Percentage change in number of staff by rank or rank-equivalent and gender, between March 2007 and October 2009



Source of raw data: New Zealand Police.
 Note: Staff below band G are administrative staff.

- 2.323 Even if this rate of change were to continue, with all other factors being equal, it would be many years before the number of women within each rank met or exceeded the number of men. It would take 12 years before there were as many female commissioned officers as there were male, and 72 years for an equal gender mix for constables. These time frames show the significant challenge faced by the Police in addressing historical gender imbalances.
- 2.324 Several of our interviewees commented on the benefits to the Police of having more female staff. The nature of what we were told was summed up by the following comment:
- If I've got a female partner on the shift, I'm probably more likely to come home in one piece than if I'm with a certain type of male.*
- 2.325 During our interviews, we were told that the gender composition of some specialist branches of policing, especially dog squads and the Criminal Investigation Branch, had gender imbalances much greater than in the Police overall. The Police told us that women accounted for 23% (393 women) of Criminal Investigation Branch staff, less than 1% (one woman) of the Police Dog Service staff, and less than 2% (four women) of the Armed Offenders Squad.
- 2.326 Despite the overall gender imbalance, we were pleased to see examples of more equal gender balances. In one district, about half the senior management team were women, and at one Criminal Investigation Branch most staff were women.
- 2.327 We encourage the Police to continue to reduce the gender imbalances within the Police, particularly in specialist areas of policing.

Ethnicity

- 2.328 The Police have provided us with information about the proportion of staff who, in 2008 and 2009, identified their ethnicity as Māori, Pacific, or Asian. The proportion of Police staff of Māori, Pacific, or Asian ethnicity is less than the proportion of each in the population as a whole. In 2006, Māori were 14%, Pacific people 7%, and Asian people 9% of the population as a whole.
- 2.329 Overall, the proportion of Police staff in these ethnic groups remained relatively static between 2008 and 2009. There has, however, been an increase in the proportion of recruits in these ethnic groups in the last two years.
- 2.330 The Police have also commissioned work specifically to understand the factors that influence Māori to join the Police and to identify improvements in initiatives and processes for recruiting Māori. We commend the Police for attempting to better understand these factors.

Summary

- 2.331 There is still further progress to make for the gender and ethnic composition of the Police to reflect that of the community the Police serve. Recent recruitment has better reflected the ethnic composition of the community, but the Police also need to monitor that the improvements envisaged by recommendation R50 are achieved.

Commission of Inquiry's recommendation R51

The Commissioner of Police should invite the State Services Commissioner to carry out an independent annual "health of the organisation" audit of the police culture (in particular, whether the organisation provides a safe work environment for female staff and staff from minority groups). The need for the audit should be reviewed after 10 years.

Our assessment: Not yet completed by the Police.

- 2.332 At the time of our first monitoring report, the Police had invited the State Services Commissioner to carry out an annual "health of the organisation" survey of police culture. The State Services Commission had carried out two of these surveys at that time (in October-November 2007 and in August 2008). We discussed the approach and findings of these surveys in Part 4 of our first monitoring report.
- 2.333 In October 2008, the Police assessed the actions taken by each district to improve the level of engagement of staff from the levels found in the two surveys. The first two surveys were about employee engagement. The Police's assessment included identifying the progress made by each district in terms of having an action plan, monitoring the progress made, and providing updates to staff on this; and the extent to which these practices had become part of normal business.
- 2.334 The findings were variable. The Police assessed progress in some districts as "well demonstrated" and in others as "not clear". The Police concluded at the time that:
- Having engagement mainstreamed in this way, albeit at a primary stage of development, does mean that the 'engagement' concept is well entrenched. This means there is an established foundation for the increasing focus over time as the revised survey tool is implemented in 2010.*
- 2.335 In our view, this may have been an optimistic assessment given the highly variable progress in Police districts. However, we commend the Police for carrying out this assessment work. We encourage the Police to continue with such assessments. The value of once-only assessments is limited and does not provide an ongoing impetus for change.
- 2.336 We also encourage the Police to continue taking steps to improve the level of employee engagement regardless of the organisational health survey tool used.

We note that the Police's *Statement of Intent 2009/10 – 2011/12* commits to implementing the action plans that arose from the 2008 survey.

The next survey

- 2.337 When we published our first monitoring report in June 2009, the Police and the State Services Commission told us that a better fit-for-purpose survey was required than the survey they had used to date. They also told us that they had planned to implement the next survey during the first half of 2010.
- 2.338 At its meeting on 17 November 2009, the Police National Tenders Board approved a preferred tenderer for providing an organisational health audit and stated that negotiations should start with that preferred tenderer.
- 2.339 The next survey had not started at the time of our audit fieldwork.
- 2.340 We encourage the Police to conduct the third organisational health audit of their organisation as soon as practicable.

Summary

- 2.341 The Police were planning a third organisational health survey at the time of our audit fieldwork. In our view, "health of the organisation" audits are a critical monitoring tool for the Police. In particular, this is because – provided they are implemented as recommended by the Commission – they will routinely provide information about the whether the Police provide a safe work environment for women and staff from minority groups.

Commission of Inquiry's recommendation R52

New Zealand Police should review its current policies, procedures, and practices on internal disclosure of wrongdoing, and actively promote a single stand-alone policy for all disclosures, including (but not limited to) those made under the Protected Disclosures Act 2000. The policy should ensure that proper inquiry is always made where information received indicates that a police member or associate may have committed a sexual offence.

Our assessment: Not yet completed by the Police.

- 2.342 The Police's draft Report and Be Protected (Safe Reporting) Policy requires staff to report allegations of misconduct or unlawful activity by other staff. The policy is intended to protect the identity, where possible, of an employee making allegations about another employee and ensure that they are protected from retaliatory action.
- 2.343 The draft policy includes proposed monitoring and evaluation of the policy's effectiveness. But it does not indicate that this review should specifically test whether proper inquiries are always made when information indicates that a police member or associate may have committed a sexual offence.

- 2.344 Without this review, it will be difficult for the Police to know whether the policy has been effective.
- 2.345 The Police also have a general instruction called Protection of Whistleblowers “As Is”. It describes in a flowchart the process an employee can follow to lay a complaint when they believe serious wrongdoing has occurred within the Police. We have provided the Police with some advice about amendments that could be made to better align this process with the requirements of the Protected Disclosures Act 2000.

Summary

- 2.346 The Police have drafted a Report and Be Protected (Safe Reporting) Policy and process. At the time of our audit fieldwork, the policy was not finalised and its effectiveness was yet to be tested. The intended monitoring and evaluation of the effectiveness of the policy did not specifically cover inquiring into allegations of a sexual offence by a police member or associate.

Recommendation 12

We recommend that the New Zealand Police have enough monitoring requirements in the Report and Be Protected (Safe Reporting) Policy or other documents to ensure that full and proper inquiry is always made where information received indicates that a police member or associate may have committed a sexual offence.

Commission of Inquiry’s recommendation R53

New Zealand Police should ensure that the policy and the approach of “report and be protected” are well understood and implemented nationally.

Our assessment: Not yet completed by the Police.

- 2.347 The Police’s Report and Be Protected (Safe Reporting) Policy was still a draft at the time of our audit fieldwork. It has not been possible for us to determine whether staff understand or comply with the policy.
- 2.348 However, during our interviews we were told of examples of staff reporting the behaviour of other staff. We were also told that staff were clear about the reporting expectations and consequences of not doing so.
- 2.349 We saw examples of cases determined to be serious misconduct that had arisen from allegations made by staff. We were also told of an example where staff had bypassed an unsympathetic supervisor to ensure that a colleague’s complaint was received.

- 2.350 We are pleased that these Police staff have taken their professional responsibilities seriously and provided information such as this.

Summary

- 2.351 Given the draft status of the Police's Report and Be Protected (Safe Reporting) Policy, it is too early to audit whether staff understand and follow the policy.

Commission of Inquiry's recommendation R54

New Zealand Police should ensure that all other relevant policies, procedures, and practices are consistent with the stand-alone policy on the reporting of serious wrongdoing and the approach of "report and be protected".

Our assessment: Not yet completed by the Police.

- 2.352 Because the Report and Be Protected (Safe Reporting) Policy was not finalised at the time of our audit fieldwork, the Police could not have completed the actions necessary to give effect to recommendation R54.
- 2.353 We are not aware of any specific work completed or planned by the Police, beyond the standard templates and checks, to ensure that all of the other relevant policies, procedures, and practices are consistent with the stand-alone policy on the reporting of serious wrongdoing and the approach of "report and be protected".

Summary

- 2.354 Complying with recommendation R54 requires the Report and Be Protected (Safe Reporting) Policy to be finalised and implemented. At the time of our audit fieldwork, the Police did not have any specific work planned to ensure that all of their other relevant policies, procedures, and practices were consistent with the stand-alone policy on the reporting of serious wrongdoing and the approach of "report and be protected".

Commission of Inquiry's recommendation R55

The New Zealand Police ethics training programme should aim to foster a culture which encourages reporting of allegations of wrongdoing by police members or police associates and provide support to those who make disclosures, consistent with the "report and be protected" approach.

Our assessment: Not yet completed by the Police.

- 2.355 The Police told us that their Contemporary Policing in New Zealand training (on discretion, ethics, and professionalism) covers the requirement to report inappropriate behaviour, and that the "report and be protected" approach is discussed at that training. The Police anticipate adding further to the training once the Report and Be Protected (Safe Reporting) Policy has been finalised.

- 2.356 The facilitator’s guide for the November 2008 Contemporary Policing in New Zealand training makes no reference to the “report and be protected” approach, nor to encouraging the reporting of allegations of wrongdoing by a police member or associate.
- 2.357 The Code of Conduct includes the obligation that employees will “challenge unethical or unprofessional behaviour”. The copies of Code of Conduct training material that we have been provided with also make no reference to the “report and be protected” approach, nor to encouraging the reporting of allegations of wrongdoing by a police member or associate.
- 2.358 We also note that failing to report wrongdoing by a fellow employee is not cited as an example of misconduct or serious misconduct in the Code of Conduct. In our view, there would be merit in including this as an example.

Summary

- 2.359 Ethical issues have been covered as part of the Police’s Contemporary Policing in New Zealand training, but this has not specifically covered the “report and be protected” approach or the reporting of allegations of wrongdoing by a police member or associate. The Police anticipate adding further to the training once the Report and Be Protected (Safe Reporting) Policy has been finalised.

Recommendation 13

We recommend that the New Zealand Police add “failure to report wrongdoing by a fellow police officer” as an example of misconduct and/or serious misconduct when next amending the Code of Conduct.

Commission of Inquiry’s recommendation R56

New Zealand Police managers and supervisors should actively communicate to police members the expectation that they will report any allegations of sexual misconduct made against a colleague or a police associate. Police managers and supervisors should encourage and support members to report such allegations.

Our assessment: Not yet completed by the Police.

- 2.360 The Police’s draft Report and be Protected (Safe Reporting) Policy notes that:
- Supervisors and managers have a key role in implementation of this policy Visible leadership from all tiers of management is expected in the implementation of this policy and use of its procedures.*
- 2.361 We have not tested the extent to which managers and supervisors have given effect to this expectation because the policy was still in draft form at the time of our audit fieldwork. We have not been able to specifically assess whether or how

the Police actively communicate the expectations, or encourage and support such reporting.

- 2.362 We are not aware of any plans by Police to make these assessments. In our view, the Police should have some ongoing monitoring and evaluation systems in place to determine the effectiveness of their Report and Be Protected (Safe Reporting) Policy. This monitoring and evaluation should be more specific than that signalled in the draft Report and Be Protected (Safe Reporting) Policy and should cover the elements of recommendation R56.
- 2.363 We also encourage the Police to include the Report and Be Protected (Safe Reporting) Policy and reporting of allegations of wrongdoing by a police member or associate as topics in the Contemporary Policing in New Zealand training or successor training.

Summary

- 2.364 More specific monitoring and evaluation than planned is required to determine the extent to which staff are encouraged and supported to report allegations of sexual misconduct against a colleague or police associate.

Commission of Inquiry's recommendation R57

Each police district should establish groups of community representatives, chaired by recognised community leaders, which meet regularly to provide comment and feedback on police service delivery and policing issues throughout the district. Relevant information obtained from the feedback from the community should be incorporated into the police early warning system (see recommendations R47, R48).

Our assessment: Not yet completed by the Police.

- 2.365 Initially, the Police intended to rely on their Service First Initiative to meet the requirements of recommendation R57. They later decided to implement a community feedback model to meet the requirements of recommendation R57. This feedback model built on district preferences for using established relationships and forms of community engagement between the Police and community groups.
- 2.366 The main characteristics of the model the Police have prepared are that:
- districts engage with a minimum of three established community groups to obtain feedback on strengths and/or systemic issues in Police service delivery and policing;
 - the groups, at a minimum, consist of:
 - a group of civic leaders;
 - a group representing “at risk” communities; and

- a group consisting of strategically significant community representatives (including Māori);
 - any issues relating to identified or identifiable Police employees are automatically handled “off-line” with a senior district Police person. The names of Police employees are not recorded in the minutes of the community group meeting;
 - meetings with the groups are held at least quarterly, or a recommendation R57 agenda item will feature at least quarterly;
 - the meetings are chaired by recognised community leaders or other suitable members of the general community;
 - districts must ensure that appropriate follow-up action is taken and provide feedback to the relevant community group(s); and
 - districts maintain a register that records issues, actions, and results, and is available for further analysis and action if required.
- 2.367 The Commission recommended that relevant information obtained from feedback from the community should be incorporated into the Police’s early warning system. The Police told us that their preference is for information from the community to go through a formal complaints process rather than be directly incorporated into the early warning system. Therefore, the direct flow of information into the Police’s early warning system is not a feature of the model described above.

Implementing the model

- 2.368 As part of the Police’s 2009/10 business plan, each Police district was required to prepare an implementation plan for applying the model.
- 2.369 The Police provided us with information about each district’s reported progress in implementing the model. Although we commend the Police for monitoring progress, the reporting and progress reported to date is variable and highly inconsistent. Some of the information reported to Police National Headquarters was also not reported correctly, making it of limited use for monitoring.
- 2.370 We carried out a survey of Police districts, looking at the community engagement and feedback arrangements in place. We assessed the progress reported to us in the survey against elements of the model. Our findings indicate considerable variability between districts in complying with the model, and that implementing the model is at a very early stage. Existing relationships are used to obtain information on specific policing issues, but not necessarily about the performance or behaviour of individual police officers or the Police as a whole.

- 2.371 It was difficult for us to ascertain whether the existing networks have the capability to provide information on the performance or behaviour of individual police officers or the Police as a whole, given the very early stage of implementation of the model.
- 2.372 The Police have a target to achieve full national implementation of the community feedback model in the 2009/10 financial year. Careful and ongoing monitoring will be required to confirm that the model has been implemented and is functioning as intended.

Summary

- 2.373 The Police have prepared and begun to implement a model, based on existing community relationships, for obtaining feedback from the community. Implementation of this model is in its early stages and monitoring will be required to confirm that it has been implemented and is functioning as intended, and that it can be used to obtain information of the nature outlined in recommendation R57.

Commission of Inquiry's recommendation R58

New Zealand Police should rationalise the projects and initiatives currently in train (including those started in response to this Commission of Inquiry into Police Conduct, and the review of the Police Act 1958) and any further projects arising out of the Government's response to this report, to ensure that overlaps between projects are addressed, interdependencies are identified, priorities are assigned, and adequate resources are made available to do the work. New Zealand Police should address these issues in its annual statement of intent, and consult with the Minister of Police in respect of the priority to be given to projects.

Our assessment: Not yet completed by the Police.

- 2.374 In its second review (April 2009) of the Police's progress with the Commission's recommendations, the State Services Commission noted that, although the Police's change programme was consistent with state sector best practice to date:
- The many current change initiatives (both COI and broader) should now be simplified and reprioritised, with as much as possible driven through business as usual line management; change positioning moving forward could reflect the notion that changes are not "projects", rather they are "business-as-usual"...*
- 2.375 The Police's *Statement of Intent 2009/10 – 2011/12* and National Business Plan for 2009/10 commit the Police to "mainstreaming" how they manage the work programme for the Commission's recommendations. Doing so is one of six outcomes under the organisational development strategic goal in the Police's National Business Plan for 2009/10.
- 2.376 The change to business as usual is supported by a plan, called the Commission of Inquiry Programme of Work to Business as Usual Transition Plan.

- 2.377 Using this approach, the number of specific priorities in the Police’s planning documents related to the Commission’s recommendations will reduce over time. However, it is important to appreciate that this does not necessarily reduce the amount of implementation work involved. Nor does it reduce the quantity of other competing initiatives and projects. In our view, there are plenty of these.
- 2.378 At the time of our audit fieldwork, the governance arrangements for the Police’s work in response to the Commission had changed from those we described in our first monitoring report. There had been a move away from the separate programme and strong project management approach to management and governance through the Police’s usual planning and monitoring processes.
- 2.379 We were told that as an individual initiative progresses to the “business as usual” stage of implementation, it is no longer treated as a separate priority in the business plan. The process for determining that a recommendation from the Commission has been completed rests with the business owner who reports progress to the Police Business Planning team. In turn, this team provides advice to the Executive Committee that now governs the work (rather than the previous steering committee).
- 2.380 At the time of our audit fieldwork, the Police were continuing to use the technical project management application (described in Part 3 of our first monitoring report) on the Police Intranet to track the progress of individual initiatives set up in response to the Commission’s report. The Police were also intending to continue providing quarterly progress reports to Ministers.

Summary

- 2.381 In our view, the success of any rationalisation of projects, and whether further rationalisation is appropriate, depends on the results that are achieved. The Police need to improve their understanding and monitoring of the results of their rationalised work programme to ensure that their technical changes, along with their cultural changes, have brought about the desired effects.

Commission of Inquiry’s recommendation R59

New Zealand Police should consult with and involve the State Services Commission and other public sector agencies, where appropriate, to ensure that the projects and initiatives of the type described in recommendation R58 take account of best practice in the public sector. The Government should take steps to remove any statutory impediment to such consultation and involvement.

Our assessment: Completed by the Police.

- 2.382 The State Services Commission has found that the Police’s change programme is consistent with state sector best practice. It is clear that the Police have acted on information and advice from the State Services Commission.

- 2.383 It is not clear to what extent the Police have consulted with and involved other public sector agencies, apart from the State Services Commission, about best practices for managing a large change programme. The Police have not identified for us any statutory impediments to them consulting with and involving other agencies, nor details of any consultation with other agencies.

Summary

- 2.384 The State Services Commission has found that the Police's change programme is consistent with best practice in the state sector.

Appendix 1

Our expectations

The following tables list the workstreams of the New Zealand Police (the Police) for responding to the recommendations made by the Commission of Inquiry into Police Conduct (the Commission). The Police arranged the Commission’s recommendations into these workstreams based on their analysis of the interdependencies between the actions that would be needed to give effect to the recommendations.

The tables set out the purpose of each workstream and recommendation, and our expectations for each. We agreed the purpose and expectations with the Police. The purpose and expectations formed the audit criteria that we used to monitor the Police’s progress.

Workstream: Adult sexual assault investigations

Purpose	Our expectations
<p>Workstream: Processes are in place to encourage supportive and thorough investigation of complaints of adult sexual assault.</p>	<p>Police have made improvements in the calibre of their investigations into adult sexual assault complaints.</p> <p>The improvements made by Police have given particular attention to the proliferation of policies and procedures, and also the issues around effective implementation of the Adult Sexual Assault Investigation Policy.</p>
<p>R9: Training and resources necessary to effectively implement the Police’s Adult Sexual Assault Investigation Policy are in place.</p>	<p>Police have identified the characteristics of effective implementation of the Adult Sexual Assault Investigation Policy.</p> <p>Using the characteristics of effective implementation, the Police have tested whether the Adult Sexual Assault Investigation Policy is being effectively implemented.</p> <p>Police have determined any gaps or short-falls in training and resources necessary to effectively implement the Adult Sexual Assault Investigation Policy.</p> <p>The Police have addressed any gaps or short-falls in training and resources that they have identified.</p>
<p>R10: The Police’s corporate Adult Sexual Assault Investigation Policy is easy to access and consistent across the relevant Police corporate documents.</p>	<p>The New Zealand Police Manual of Best Practice includes the Adult Sexual Assault Investigation Policy.</p> <p>The New Zealand Police Manual of Best Practice is readily available to staff, where appropriate.</p> <p>Information in the manual is accessible and usable.</p>

Purpose	Our expectations
<p>R15: Communication with complainants is improved.</p>	<p>The Police have assessed their process for communicating with complainants about the investigation of their complaint.</p> <p>Police have acted on the findings of their assessment of the process.</p> <p>The Police's complaints process ensures that complainants and support people are given:</p> <ul style="list-style-type: none"> • realistic expectations about key milestones in the investigation of their complaint; • the opportunity to comment on the choice of investigator; • regular updates on progress, and advance notice of delays; and • assistance in understanding the reasons for any decision not to prosecute. <p>Note: The Police see this as part of wider work to improve the public's confidence in policing.</p>
<p>R18: A consistent level of investigation service is provided to adult sexual assault complainants.</p> <p>The skills of officers involved in adult sexual assault investigations continue to increase.</p>	<p>Police periodically measure or assess adult sexual assault complainants' experiences of the Police's service.</p> <p>The Police act upon the findings of this measurement or assessment.</p> <p>Training for the Adult Sexual Assault Investigation Policy exists.</p> <p>The training is fully implemented throughout the country.</p> <p>A programme or plan for ongoing skill improvement, for officers involved in adult sexual assault investigations, exists and is followed.</p>
<p>R19: There is more consistent Government funding for support groups involved in assisting the investigation of adult sexual assault complaints than at the time of publication of the Commission of Inquiry.</p>	<p>Police have identified the support groups involved in assisting the investigation of adult sexual assault complaints.</p> <p>Police have identified the relevant Government agencies to initiate co-operative action to seek more consistent Government funding for support groups involved in assisting the investigation of adult sexual assault complaints.</p> <p>More consistent funding is in place.</p>

Workstream: Compliance

Purpose	Our expectations
<p>Workstream: Police adhere to and comply with their standards and procedures.</p>	<p><i>There is more consistency in police standards and procedures.</i></p>
<p>R11: The Police have developed a system that confirms whether officers have read and understood policies and instructions relating to their duties, including when there are changes to those policies or instructions.</p>	<p>A system exists.</p> <p>The system includes the functionality to confirm whether officers have read and understood policies and instructions relating to their duties.</p> <p>Information from the system is used by management and/or supervisory staff where appropriate to inform communication with, and training of, staff.</p> <p>The system is widely used by Police staff to record that they have read and understood policies and instructions relating to their duties.</p>
<p>R13: All Police staff are aware of what training is mandatory regardless of where they work. Management and/or supervisory staff at the district level have clarity about which training for their staff is within the discretion of their district.</p>	<p>A review of training has been conducted.</p> <p>An outcome of the review has been the identification of what training is mandatory at a national level and what should be left to the discretion of districts.</p> <p>This outcome has been communicated to relevant/ appropriate staff.</p> <p>Staff are aware of what training is mandatory at a national level and what should be left to the discretion of districts.</p>
<p>R41: There is no room for individual interpretation in the Police’s directions on the inappropriate use of police email and the Internet.</p>	<p>Directions exist on the inappropriate use of police email and the Internet.</p> <p>The directions contain no room for individual interpretation.</p> <p>Police staff are aware of and understand the directions.</p> <p>Identified cases of behaviour inconsistent with the directions are clear and do not involve arguments about what is inappropriate use.</p>
<p>R42: All staff understand acceptable use policies for the Internet and email and follow the policies.</p>	<p>The Police have introduced a requirement for staff to sign a document to confirm that they have read and understood the acceptable use policies.</p> <p>Staff have signed the document.</p> <p>Acceptable use policies for the Internet and email are fully explained to all Police recruits during their training.</p> <p>Compliance with acceptable use policies is monitored.</p> <p>There is appropriate follow-up where policies are not followed.</p>

Purpose	Our expectations
R43: All police officers are informed of, have read, and understand changes to Police computer use policies.	<p>The Police have introduced a requirement for police officers to acknowledge that they have read and understood changes to Police computer use policies.</p> <p>The Police have a record of this acknowledgement.</p> <p>The requirement is fully explained to all Police recruits during their training.</p>

Workstream: Complaints

Purpose	Our expectations
Workstream: <i>The public have knowledge of and confidence in the Police’s complaints process.</i>	<p><i>The Police have taken active steps to facilitate complainants coming forward, especially when an alleged offender is a member of the Police.</i></p> <p><i>Complaints against the Police are investigated fairly, thoroughly and impartially.</i></p> <p><i>Note: It is important not to draw conclusions from the numbers of complaints involving police officers without recognising that policing by nature can generate large numbers of complaints.</i></p>
R5: The Commissioner of Police is notified when there is a serious complaint made against a police officer.	<p>The Police have developed a policy about notifying the Commissioner of Police when there is a serious complaint made against a police officer.</p> <p>The policy defines a serious complaint.</p> <p>The policy specifies who is to notify the police commissioner and within what time frames.</p> <p>Staff are aware of and follow the policy.</p> <p>Since the policy was developed, the Commissioner has been notified of all serious complaints made against a police officer.</p>
R6: The public have relative ease of access to information on the complaints process and on their rights.	<p>Information on the complaints process is widely available to the public through multiple communication channels.</p> <p>Note: The Police see this as part of the wider objective of the public having easier access to Police services generally.</p>
R7: Determine public awareness of processes for making a complaint against a police member or associate.	<p>The Police periodically assess the public’s awareness of the complaint processes.</p> <p>Public awareness of the processes is increasing.</p>

Purpose	Our expectations
<p>R14: Standards of complaint investigation are consistent throughout the country.</p>	<p>A practice exists for reminding investigating officers of the standards for complaint investigation.</p> <p>This practice is applied consistently throughout the country.</p> <p>The standards of complaint investigation are applied consistently throughout the country.</p>
<p>R16: There is a high degree of transparency and consistency in investigation of a complaint involving a police member or associate.</p>	<p>An explicit policy exists on the need for independence in the investigation of a complaint involving a police member or associate.</p> <p>In respect of the handling of conflicts of interest, among other things, the policy:</p> <ul style="list-style-type: none"> • identifies types and degrees of association; • defines a conflict of interest; • provides guidelines and procedures to assist police officers identify and adequately manage conflicts of interest; and • ensures that the risk of a conflict of interest involving investigation staff is considered at the outset of any investigation. <p>Investigations of complaints involving a police officer adhere to the policy.</p>
<p>R20: Practices in investigating complaints against a police member or associate comply with relevant standards and procedures, and are consistent throughout the country.</p>	<p>Systems are in place that:</p> <ul style="list-style-type: none"> • verify that actual police investigation practices comply with the relevant standards and procedures; • ensure the consistency of such practice throughout the country; • identify remedial action where necessary; and • monitor police officers' knowledge and understanding of the relevant standards and procedures. <p>The systems are used.</p> <p>The systems produce consistent and reliable results.</p> <p>Police officers know about and understand the relevant standards and procedures.</p> <p>Note: The Police have indicated that this purpose should apply to all investigations, not just those for sexual assault complaints.</p>

Purpose	Our expectations
<p>R57: Regularly obtain community comment and feedback on police service delivery and policing issues in each police district and where relevant, incorporate the information into the police early warning system.</p>	<p>Within each police district, groups of community representatives, or equivalent, meet regularly to provide comment and feedback on police service delivery and policing issues throughout the district.</p> <p>Within each police district, the police regularly receive comment and feedback from the community on police service delivery and policing issues throughout the district.</p> <p>The Police record the comment and feedback received from the community in each district.</p> <p>Where relevant, the Police incorporate information received from the community into the police early warning system.</p> <p>Note: The Police prefer that information from the community is obtained through a variety of channels, including through community policing, and that when received the information goes through a formal complaints process rather than being directly incorporated into the early warning system.</p>

Workstream: Corporate instruments

Purpose	Our expectations
<p>Workstream: <i>The Police have improved their corporate instruments and the instruments are used consistently throughout their organisation.</i></p>	<p><i>The clarity, consistency, availability and ease of use of police's key policies, instructions and directives, relating to the subject matter of the Commission of Inquiry, have improved.</i></p>
<p>R1: The Police's policies, instructions and directives relating to investigation of complaints of misconduct against police officers and adult sexual assault complaints are readily accessible and easy to follow.</p>	<p>A review of the policies, instructions, and directives relating to investigation of complaints of misconduct against police officers and adult sexual assault complaints has been conducted.</p> <p>The policies, instructions, and directives have been consolidated as a result of the review.</p> <p>The policies, instructions, and directives are readily accessible to staff and are easy to follow.</p>
<p>R2: The Police's general instructions are automatically updated when an existing policy is changed.</p>	<p>System or process is in place to automatically update general instructions.</p> <p>System or process works, i.e. general instructions are automatically updated.</p> <p>System or process is used.</p>

Purpose	Our expectations
R3: Key instructions are nationally consistent.	<p>A set of policy principles has been developed regarding what instructions need to be nationally consistent and where regional flexibility is allowed.</p> <p>The Police have assessed their instructions against the policy principles.</p> <p>The Police have acted on the findings of their assessment and have amended their instructions where required.</p>
R4: An enhanced policy capability is in place within the Office of the Commissioner.	<p>Enhanced policy capability is in place.</p> <p>Policy analysis is provided.</p> <p>Policy analysis is based on sound data, drawing upon the experience of frontline staff and upon research from New Zealand and beyond.</p>

Workstream: Early warning system

Purpose	Our expectations
Workstream: <i>Inappropriate behaviour by Police staff is identified early and managed proactively.</i>	<p><i>The Police know what constitutes inappropriate behaviour.</i></p> <p><i>The Police can identify inappropriate behaviour by staff.</i></p> <p><i>The Police are able to manage inappropriate behaviour by staff before it escalates.</i></p>
R8: The Police are able to identify the total number of complaints against the Police and the number of complaints against any one officer.	<p>A system or process is in place that accurately records the number of complaints.</p> <p>The system or process can identify the number of complaints against individual police officers.</p> <p>The system or process is used and can produce reports.</p> <p>The Police appropriately act upon reports from the process or system.</p>
R44: The purpose of the recommendation is to stop inappropriate use of the Internet by Police staff.	<p>A process or system is in place to provide Police managers with regular reports on the use of the Internet by their staff.</p> <p>This process or system is used.</p> <p>A reporting requirement on the use of the Internet by Police staff is built into the Police’s early warning system referred to in R47 and R48.</p> <p>Note: The Police see the purpose of this recommendation as being part of their wider performance management work.</p>

Purpose	Our expectations
<p>R47: The Police are able to identify staff demonstrating behaviour that does not meet acceptable standards and ensure that such behaviour does not continue or escalate.</p>	<p>An early warning system is in place.</p> <p>The system enables the Police to identify staff demonstrating behaviour that does not meet acceptable standards.</p> <p>The system is used.</p> <p>The Police act on information from the system to stop unacceptable behaviour continuing or escalating.</p>
<p>R48: All relevant information of a police officer's full record of service is recorded and is accessible.</p>	<p>An early warning system is in place that records all relevant information, sufficient to give a complete picture of an officer's full record of service.</p> <p>The recorded information is relevant and accurate.</p> <p>Staff are able to request information from the system about themselves and to request corrections to this information.</p> <p>The relevant information is available to police managers and supervisors when making appointments and monitoring performance.</p> <p>Police managers and supervisors use the information.</p> <p>The relevant information is available to complaint investigators where appropriate.</p> <p>The complaint investigators use the information.</p> <p>Note: The Police have noted that they believe that relevant information should be both positive and negative.</p>

Workstream: Ethics and ethnic minorities

Purpose	Our expectations
<p>Workstream: Police behave ethically and to a standard that reflects the expectations of the communities they serve.</p>	<p><i>The Police know what ethical behaviour is.</i></p> <p><i>The Police culture and behaviour is consistent with this knowledge.</i></p> <p><i>The number of women and people from ethnic minority groups employed by the Police increases over time.</i></p>
<p>R12: The technical competencies of officers are updated in line with new policies and instructions.</p>	<p>Technical competencies of officers have been defined.</p> <p>A process or system is in place that ensures technical competencies of officers are updated in line with new policies and instructions.</p> <p>The process or system is used.</p> <p>Officers are aware of the technical competencies.</p> <p>Officers understand the technical competencies.</p> <p>Officers are informed when there are changes to the technical competencies.</p> <p>Note: The Police have indicated that updating of officers' competencies should be in a tiered fashion that aligns with the Police's overall approach to organisational learning.</p>

Purpose	Our expectations
<p>R17: The Police's understanding of ethics is improved, and police identify and manage actual or perceived conflicts of interest involving a colleague or associate.</p>	<p>An ethics training programme exists.</p> <p>The content of the training programme has been expanded to include identifying and managing conflicts of interest (particularly in respect of complaints involving police members or associates).</p> <p>The training programme has been implemented.</p> <p>The number of upheld complaints involving police officers and conflicts of interest is decreasing.</p>
<p>R39: Mediated resolution of a complaint of sexual harassment involving police staff is finalised in writing and signed.</p>	<p>A Sexual Harassment Policy exists.</p> <p>The Police have amended the policy to require a mediated resolution of a complaint of sexual harassment to be finalised in writing and signed by both parties.</p> <p>There is a signed written record of complaints of sexual harassment that have had a mediated resolution.</p> <p>The Police have taken additional steps to reduce the risk of sexual harassment behaviour recurring.</p> <p>Note: Police's view is that compliance with this recommendation will not stop recurrence of the sexual harassment behaviour.</p>
<p>R45: Police behave ethically.</p>	<p>A nationally consistent ethics training programme exists.</p> <p>All police officers are required to attend the training programme.</p> <p>Police officers attend the training programme.</p> <p>There are regular refresher courses on ethics.</p> <p>Police officers are required to attend the refresher courses.</p> <p>Police officers attend the refresher courses.</p> <p>Ethical issues are a diminishing component of upheld complaints against police.</p>
<p>R46: An ethics committee or committees exist in each Police district.</p>	<p>The Police have a mandatory requirement for the establishment of an ethics committee or committees in each Police district.</p> <p>An ethics committee or committees have been established in each Police district.</p> <p>The ethics committee or committees meet regularly in each Police district.</p> <p>There is a national set of guidelines to guide police districts on the purpose, operation, and membership of their ethics committees.</p> <p>The purpose, operation, and membership of each ethics committee are consistent with the national guidelines.</p> <p>There is consensus that the committees are working well.</p> <p>Note: The Police have identified that having a forum for people to raise ethical issues is important, as is the visibility of the Police having conversations about ethics.</p>

Purpose	Our expectations
<p>R50: Promote a diverse organisational culture that reflects the community it serves.</p> <p>Enhance the effective and impartial investigation of complaints alleging sexual assault by members of the Police or by associates of the Police.</p>	<p>The number of women and people from ethnic minority groups employed by the Police increases over time.</p> <p>Note: The Police have identified that they think of community in the plural sense and that an ongoing challenge for the Police is how to induct and support people from a range of communities.</p>
<p>R52: Ensure proper inquiry is always made when information received indicates that a police member or associate may have committed a sexual offence.</p>	<p>The Police have reviewed policies, procedures, and practices on internal disclosure or wrongdoing.</p> <p>The Police have a single stand-alone policy for all disclosure (including protected disclosure).</p> <p>The policy is adhered to.</p>
<p>R53: The Police’s policy and approach of “report and be protected” is well understood and implemented.</p>	<p>The Police have a policy and approach of “report and be protected”.</p> <p>Police staff understand the policy and approach.</p> <p>Police staff throughout the whole country follow the approach and adhere to the policy.</p>
<p>R54: The Police’s relevant policies, procedures and practices are consistent with their policy on the reporting of serious wrongdoing and the approach of “report and be protected”.</p>	<p>The Police have identified the relevant policies, procedures, and practices.</p> <p>Police have examined the relevant policies, procedures, and practices for consistency with its policy on the reporting of serious wrongdoing and the approach of “report and be protected”.</p> <p>Where necessary, the Police have amended the relevant policies, procedures, and practices on the reporting of serious wrongdoing and the approach of “report and be protected.”</p>
<p>R55: Foster a culture which encourages reporting of allegations of wrongdoing and provides support to those who make disclosures.</p>	<p>The Police have an ethics training programme.</p> <p>A documented aim of the ethics training programme is to foster a culture which encourages reporting of allegations of wrongdoing by a police member or associate.</p> <p>A documented aim of the ethics training programme is to foster a culture which provides support to those who make disclosures, consistent with the “report and be protected” approach.</p> <p>There is reporting of alleged wrongdoing by a police member or associate.</p> <p>Note: The Police have identified that internal reporting of instances of wrongdoing, particularly those involving excess use of force, are important. The Police have also commented that looking at the complainant and their motives is important.</p>

Purpose	Our expectations
<p>R56: Members of the Police are encouraged and supported to report any allegations of sexual misconduct made against a colleague or associate.</p>	<p>Managers and supervisors actively communicate the expectation that police should report any allegations of sexual misconduct against a colleague or associate.</p> <p>Staff are encouraged and supported to report such allegations.</p>

Workstream: Performance management and discipline

Purpose	Our expectations
<p>Workstream: <i>The Police's performance management and disciplinary regime is in line with contemporary practice, services the interests of complaints well and supports good employment practice.</i></p>	<p><i>The Police's performance management and disciplinary systems support good and contemporary employment practice</i></p> <p><i>An enforceable Code of Conduct is in place for all members of the Police.</i></p>
<p>R33: A more efficient disciplinary system is in place than the tribunal system under the provision of the Police Regulations 1992.</p>	<p>The provisions of the Police Regulations 1992 have been revoked.</p> <p>A new disciplinary system is in place.</p> <p>The Police are tracking the efficiency of the system.</p>
<p>R34: A best practice State sector disciplinary system is implemented.</p>	<p>The Police have implemented a disciplinary system based on a Code of Conduct.</p> <p>The disciplinary system is in keeping with the principles of fairness and natural justice as part of the employment relationship.</p> <p>The disciplinary system is of a standard that is at least best practice for the State sector.</p> <p>The disciplinary system is used and meets its purpose.</p> <p>The disciplinary system is consistent throughout the country.</p> <p>Note: The Police have indicated that a case-by-case approach has to be taken to disciplinary matters and that a higher standard than best practice for the State sector should be aimed for.</p>
<p>R35: The new disciplinary system allows independent investigation of alleged misconduct.</p>	<p>Independent investigations of alleged misconduct have been conducted under the new disciplinary system.</p> <p>Independent investigations under the new disciplinary system are in accordance with sections 5A and 12 of the Police Act 1958 or its successor legislation.</p> <p>The new disciplinary system does not include the use of a formal disciplinary tribunal.</p>

Purpose	Our expectations
<p>R36: The Police’s human resources and professional standards functions are fully integrated.</p>	<p>Human resource and professional standards functions are fully integrated in the Police’s operations and systems.</p>
<p>R38: A Code of Conduct is in place for sworn staff.</p>	<p>A Code of Conduct for sworn staff exists.</p> <p>Timing of the development and implementation of the Code of Conduct for sworn staff indicates this work was treated with urgency by the Police.</p> <p>The Code of Conduct for sworn staff is used by the Police as part of their performance management and disciplinary arrangements.</p> <p>The Police are tracking the effectiveness of the Code of Conduct, including identifying any amendments that may be required.</p> <p>The Code of Conduct for constabulary staff is in line with the Code of Conduct for sworn staff.</p>
<p>R40: The Police’s code of conduct and relevant policy and training materials incorporate standards, policies, and guidelines on inappropriate sexual conduct towards, and the forming of sexual relationships with, members of the public.</p>	<p>Standards, policies, and guidelines exist.</p> <p>The standards, policies, and guidelines were developed with the assistance of an external expert in professional ethics.</p> <p>The standards, policies, and guidelines specify action and types of behaviour of a sexual nature that are inappropriate or unprofessional; and prohibit members of the Police from entering any relationship of a sexual nature with a person over whom they have a position of authority, or where there is a power differential.</p> <p>The standards, policies, and guidelines are incorporated within the Police’s Code of Conduct and relevant policy and training materials.</p> <p>The Code of Conduct is used.</p>
<p>R49: The Police have improved their approach to performance management of staff.</p> <p>Follow-up identified in police performance improvement plans occurs.</p>	<p>Police have reviewed their approach to performance management.</p> <p>The review has included training provided to supervisors and managers, the performance appraisal process and documents, and methods to ensure that follow-up identified in the performance improvement plans actually occurs.</p> <p>Note: The Police have identified this as being a key recommendation as it is the “glue” ensuring adherence and compliance with a raft of other recommendations, in particular those relating to performance management. The Police have also identified that meeting the intent of the recommendation is important for positive as well as negative performance, i.e. not just disciplinary in nature.</p>

Workstream: Assurance

Purpose	Our expectations
<p>Workstream: <i>The Police have improved the organisational health of the Police organisation by giving effect to the Commission of Inquiry's recommendations.</i></p>	<p><i>The Police's work programme has been rationalised, and informed by state sector best practice, and results in ongoing improvements to police culture, including the safety of the work environment for female staff and staff from minority groups.</i></p>
<p>R37: The Police's performance management and disciplinary systems and processes are adequate, standardised, and managed to a standard that is consistent with best practice in the public sector.</p>	<p>The Police have invited the State Services Commissioner to review the police approach to performance management and discipline.</p> <p>The State Services Commissioner's review shows that the performance management and disciplinary systems and processes are adequate, standardised, and managed to a standard that is consistent with best practice in the public sector.</p> <p>The Police have acted upon any improvements recommended as a result of the State Services Commissioner's review.</p>
<p>R51: An independent annual "health of the organisation" audit of police culture is carried out.</p>	<p>The Commissioner of Police has invited the State Services Commissioner to carry out an annual "health of the organisation" audit of police culture.</p> <p>The annual "health of the organisation" audit of police culture includes testing of whether the organisation provides a safe work environment for female staff and staff from minority groups.</p> <p>The results from the annual "health of the organisation" audits of police culture show improvement in "organisational health", including the safety of the work environment for female staff and staff from minority groups.</p> <p>The annual "health of the organisation" audit of police culture is conducted annually for not less than a 10-year period.</p>
<p>R58: The Police have rationalised the projects and initiatives they had in train at the time of the publication of the Commission of Inquiry.</p>	<p>The number of Police projects and initiatives now in place is less than at the time of publication of the Commission of Inquiry's report.</p> <p>The Police, as part of rationalising work in train at the time of the publication of the Commission of Inquiry, and subsequent work relating to responding to the Commission's findings, have addressed overlaps between projects, identified inter-dependencies, assigned priorities, and made adequate resources available for the rationalised programme of work.</p> <p>The Police have consulted with the Minister of Police about the priority to be given to projects in its rationalised work programme.</p> <p>Since publication of the Commission of Inquiry, the Police's annual statements of intent demonstrate that their work programme has been rationalised, prioritised, and resourced.</p>

Purpose	Our expectations
<p>R59: Projects and initiatives in the Police’s rationalised work programme take account of best practice in the public sector.</p>	<p>The Police have consulted and involved the State Services Commission and other public sector agencies, where appropriate, about best practice in the public sector.</p> <p>The Police have acted on the information obtained through this consultation and involvement to inform their projects and initiatives.</p> <p>Any statutory impediments have been identified and removed.</p>

Appendix 2

Why and how we conducted our audit

Commission of Inquiry into Police Conduct

In 2004, the Government set up the Commission of Inquiry into Police Conduct (the Commission) to carry out a full and independent investigation into the way in which the New Zealand Police (the Police) had dealt with allegations of sexual assault committed by police members and associates. This followed the publication of allegations suggesting that police officers might have deliberately undermined or mishandled investigations into complaints of sexual assault that had been made against other officers.

The Commission's report, released in April 2007, concluded that there were systemic flaws requiring attention from both police management and government legislators. The report's findings included 60 recommendations, 47 of which were for the Police to respond to.

The Commissioner stated that, in her view:

Independent monitoring of and reporting on police progress will ... be critical to ensure that the momentum established through the Commission is sustained.⁹

The Commission recommended that the Government invite the Controller and Auditor-General to monitor the Police's implementation of all of the Commission's recommendations, including the Police's projects and initiatives of the type described in recommendation R58. This monitoring role was to last for 10 years and include regular reporting to Parliament.

In September 2007, the then Government invited the Auditor-General to carry out the monitoring role. The Auditor-General accepted the Government's invitation.¹⁰

Our monitoring work

This report is the second in our 10-year monitoring programme. Figure 13 outlines the other work that we envisage as part of the monitoring programme.¹¹

We might supplement the anticipated reports described in Figure 13 with other work. If the findings of our later reports or other information show that additional work is necessary, we will select from the range of audit and assurance tools

9 "Commission of Inquiry into Police Conduct", media statement by Dame Margaret Bazley, 3 April 2007.

10 The State Services Commission was also given a monitoring role for some of the recommendations in the Commission of Inquiry's report. The specific recommendations are R37 (relating to performance management, discipline, and best practice in the public sector), R51 (relating to an organisational health audit of the Police), and R59 (relating to implementing and monitoring projects and best practice in the public sector).

11 It is important to note that approval of the specific elements of the 10-year programme depends on those elements being included in our Office's proposed work plan for each year. The Auditor-General finalises the work plan for each year after consulting Parliament on the work plan's contents.

available to us, to ensure that we use methods appropriate to the issues being examined.

Figure 13

Plan for monitoring the New Zealand Police's response to the recommendations of the Commission of Inquiry into Police Conduct

	Main focus	Additional focus	Completed by
Report 1	What is the Police's work programme?	Is it an effective work programme?	30 June 2009
Report 2	Have the Police effectively implemented the projects and initiatives in the work programme?	Have there been changes to the Police's work programme and is the amended work programme effective?	30 June 2010
Report 3	What sustainable improvements in policing for the New Zealand public have resulted from implementation of the work programme?	Have there been changes to the Police's work programme and is the amended work programme effective? Have the Police continued to effectively implement the projects and initiatives in the work programme?	30 June 2012
Report 4	An overview of how the Police's work programme has been implemented and the results it has produced.	Consideration of whether any further work is required.	31 March 2017

Our first monitoring report is available on our website (www.oag.govt.nz). It found that, overall, the Police had responded in a committed manner to the Commission's findings. There were several matters the Police needed to give attention to if progress was to be maintained.

How we carried out this audit

We carried out a performance audit to assess whether the Police have effectively implemented the projects and initiatives in their work programme for responding to the Commission's recommendations.

To assess the Police's progress, we conducted 55 interviews with Police staff located in Northland and Canterbury and at Police National Headquarters in Wellington. We chose these locations because, together, they covered a selection of rural, provincial, urban, and metropolitan policing.

We also spoke with the New Zealand Police Association, the State Services Commission, the Independent Police Conduct Authority, and members of Te Ohaaki a Hine – National Network for Ending Sexual Violence Together.

We reviewed and analysed a range of Police documents and we observed the Police's corporate instrument and electronic complaints recording system. We surveyed each Police district about its ethics committee and community engagement and feedback arrangements. We also, with the Police's permission, anonymously telephoned 18 police stations chosen at random seeking advice on how to make a complaint against the Police.

Our audit expectations

As part of establishing our expectations, we held a workshop with senior management within the Police to agree the key purpose of each recommendation in the Commission's report.

We determined the elements of each recommendation that needed testing to determine whether its purpose had been met.

We then grouped the recommendations to match the Police's workstreams. For each workstream, we developed an overall purpose and identified tests for effectiveness. These became our expectations for each workstream.

Our expectations for each recommendation and workstream are outlined in Appendix 1.

What we did not audit

We did not audit:

- the responsibilities of the Commissioner of Police set out in section 16(2) of the Policing Act 2008, in which the Commissioner must act independently;
- the competence or performance of individual police officers or other staff;
- the Police's responses to individual complaints about police conduct; and
- the sustainable improvements and outcomes resulting from the Police's work programme, because we expect these to be the subject of a later monitoring report.

Publications by the Auditor-General

Other publications issued by the Auditor-General recently have been:

- Local government: Examples of better practice in setting local authorities' performance measures
- Local government: Results of the 2008/09 audits
- Statement of Intent 2010–13
- Performance audits from 2008: Follow-up report
- Effectiveness of arrangements for co-ordinating civilian maritime patrols
- Auditor-General's inquiry into certain types of expenditure in Vote Ministerial Services – Part 1
- Local authorities: Planning to meet the forecast demand for drinking water
- Central government: Results of the 2008/09 audits
- Auckland City Council: Management of footpaths contracts
- Investigation into conflicts of interest of four councillors at Environment Canterbury
- Effectiveness of arrangements to check the standard of services provided by rest homes
- Ministry of Justice: Supporting the management of court workloads
- How the Thames-Coromandel District Council managed leasing arrangements for Council land in Whitianga
- Auditor-General's decision on parliamentary and ministerial accommodation entitlements
- Ministry of Education: Managing support for students with high special educational needs
- Ministry of Social Development: Changes to the case management of sickness and invalids' beneficiaries

Website

All these reports are available in HTML and PDF format on our website – www.oag.govt.nz. Most of them can also be obtained in hard copy on request – reports@oag.govt.nz.

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