



Commission of Inquiry into Police Conduct

Te Kōmihana Tirotiro Whanonga Pirihimana

Media Statement by Dame Margaret Bazley

Last week I presented my report to His Excellency the Governor-General. The Commission has now been discharged, and my warrant has expired. However, the Prime Minister has asked me to present this prepared statement to the news media containing the published overview of my report.

I would like to start by explaining the limits that were placed on the Commission's terms of reference. The Commission was first set up in response to the allegations by Ms Louise Nicholas and Ms Judith Garrett about the handling of their complaints. According to the original terms of reference, their allegations raised questions about -

- First, the adequacy and impartiality of Police investigations into complaints, including their complaints, of sexual assault against members of the Police, or associates of the Police;
- Second, the extent to which the behaviour that gave rise to those complaints was subject to disciplinary action by the Police against members;
- Third, the prevailing attitude or tolerance of the Police, both in the past and now, in respect of complaints alleging sexual assault by members of the Police or associates; and
- Fourth, the general propriety of the conduct of members of the Police in respect of sexual matters.

In May 2005 the Commission's terms of reference were changed, because:

- some of the matters that were within its terms of reference were the subject of ongoing investigations by the Police; and
- there was a need for the Commission to continue with the inquiry - but without prejudicing those ongoing investigations or prosecutions.

The changed terms of reference effectively prevented me from inquiring into Ms Nicholas's or Ms Garrett's allegations. A number of others had to be put

"on hold". I was also directed to make findings of a more general nature than had been at first envisaged. I could not inquire into, or report on, any allegations that were still under investigation by the Police or that were before the courts. I was also not to give any names or particulars in my report that could identify any individuals, either complainants or those who were the subject of complaints.

Of necessity, therefore, the focus of the report is more general than was envisaged when the Commission was first established.

I will now read from the overview to my report.

I have formed a number of clear impressions based on the extensive evidence presented to me during the inquiry. *First*, I saw evidence of some disgraceful conduct by police officers and associates over the period from 1979, involving the exploitation of vulnerable people. There were also incidents of officers attempting to protect alleged perpetrators. These incidents, which occurred mainly in the 1980s, include evidence of officers condoning or turning a blind eye to sexual activity of an inappropriate nature; a wall of silence from colleagues protecting those officers complained about; negative, stereotyped views of complainants; and a culture of scepticism in dealing with complaints of sexual assault. However, there was no evidence of any concerted attempt across the organisation as a whole to cover up unacceptable behaviour.

Second, New Zealand is fortunate to have a police force in which this kind of misconduct is a relatively rare occurrence. However, the risk that misconduct, particularly sexual misconduct, poses to public confidence in the police is a significant one. New Zealand Police should give high priority to ensuring that this risk is minimised, and that when misconduct does occur, it is dealt with professionally, expeditiously, and in a manner that gives both complainants and the general public no reason for concern. In my view police management lacks the policies, procedures, and practices necessary for effectively dealing with such misconduct, and for removing the officers concerned.

Third, I was disturbed to learn that the police do not have any code of conduct or guidelines that provide sworn police officers with clear guidance on what constitutes appropriate behaviour, in particular appropriate sexual behaviour. It is very clear to me that in order to maintain public trust and credibility police officers need to adhere to high standards of ethical behaviour, both on and off duty, and police management needs to be vigilant in maintaining a culture that supports these standards. This is particularly the case with respect to sexual behaviour, and to any suggestion that an officer is using his or her position of authority to secure sexual favours. Some types of sexual behaviour, although they may not constitute sexual assault, are nevertheless inappropriate for police officers.

Fourth, it is my view that, at the present time, the public can have confidence in the calibre of police investigations into allegations of sexual assault by police

officers and police associates. Although the evidence the Commission has seen highlights some failings in the past, the policies and procedures surrounding how such allegations are investigated have improved markedly over the past 25 years. Nevertheless, further improvements are needed, in particular to address the proliferation of policies and procedures, and also the issues around the effective implementation of the Adult Sexual Assault Investigation Policy.

In the light of these conclusions, it is clear to me that the police cannot rest on their laurels. Large numbers of complaints are a serious threat to any organisation, and the number of complaints against police officers that have been seen to justify some sort of action is, in my view, significant enough for the Commissioner of Police to be alert to the potential risk to the reputation of New Zealand Police. The good work done by many investigating officers, particularly in the past 15 years, has been placed in jeopardy by systemic flaws that need attention from both police management and government legislators. Some matters need urgent attention. For example:

- The current police disciplinary system for sworn staff is cumbersome, time-consuming, and outdated. It needs to be replaced with a modern approach to managing misconduct and poor performance, based upon a code of conduct, applying standard employment law and best practice human resource management principles. In spite of the recent withdrawal of a Government bill that would have done just that, I urge the Government to consider immediate action to revoke the current regulations dealing with discipline in order to enable a more sensible and efficient system to come into force as soon as possible.
- The formal policies and procedures governing police investigations of sexual assault need to be consolidated in a single, accessible document, as do the various policies and procedures concerning investigations of allegations against police staff and police associates.
- The Adult Sexual Assault Investigation Policy needs to be supported with adequate resources for training and for the provision of appropriate facilities.
- The police need to improve their performance management systems. They need to establish a national early warning system that highlights officers who may be at risk of inappropriate behaviour.

As a result of the evidence presented to me during the inquiry I have made 60 recommendations for change. The recommendations cover all of the main heads of the terms of reference, those being:

- Police standards and procedures for investigating complaints of

sexual assault against members or associates of the police;

- Police practices when investigating such complaints;
- Police investigations on behalf of the Police Complaints Authority in respect of such complaints; and
- standards and codes of conduct in relation to personal behaviour by members of the Police.

As well as these recommendations, the existence of the Commission has also encouraged the police themselves to embark on many new initiatives, particularly as I raised my concerns with them during the inquiry. For instance when the Commission began, the police had no clear policy framework in place, there was no code of conduct for sworn members (and there still is no code in place), and they had little in the way of standards for personal behaviour.

Although I am pleased that the police have seen the Commission as a catalyst for making changes in these areas, I am concerned that the police impetus for change may not be sustained once the Commission is discharged. For this reason I believe that it is very important that an independent agency with the appropriate authority be tasked with monitoring and reporting on the implementation of my recommendations as adopted by Government, and also with the progress on the police projects and initiatives generally. Many of the projects that the police have embarked on will involve making long-term changes to culture and systems. They are not changes that can be implemented in a short period of time; likewise with the recommendations arising from my report. Independent monitoring of and reporting on police progress in making these changes will thus, in my view, be critical to ensure that the momentum established through the Commission is sustained.

Provided that the recommendations in my report are systematically implemented, I believe that the New Zealand public can continue to have full confidence in a police force of which they can be justifiably proud.

Postscript

My report contains a postscript, prompted by events that occurred after the report was completed, but before it went to press. The postscript contains two further points that are of some importance.

First, the recent acquittals of one current and two former police officers on historical sexual assault charges have resulted in public debate about the ability of the justice system to deal with alleged offending by members of the police. I am conscious that some of the examples of past practice mentioned in my report may result in similar debate.

I would be very concerned if an unintended consequence of such debate was

to deter victims from reporting serious violent offending, such as rape, committed by members of the police. It is absolutely critical for the prospects of successful prosecution of offending such as rape that the complaint is received as soon as possible after the offence is committed.

I acknowledge the very real hurdles that victims of any sexual offending are confronted with in approaching the police to complain. A key message of my report is that the police must take active steps to facilitate victims coming forward, especially when an alleged offender is a member of the police. But having completed my inquiry I am satisfied that the police now have processes in place that encourage a supportive, independent, and thorough investigation of such complaints, overseen by the Police Complaints Authority. I encourage victims to use these processes.

Second, as I have said, the amended terms of reference precluded any inquiry into, or report on, allegations that were for the time being the subject of investigation by the police or any current or pending criminal proceedings. A number of police files that were submitted to the Commission fell into this category. These were put "on hold". The completion of some of the investigations during the period when the Commission was preparing its report removed the restriction on inquiry into, or reporting on, those cases. Although it was too late to hear evidence on the individual cases, the Commission was able to consider completed investigation files as part of its wider review of police investigation files.

I am therefore aware of the allegations those files contained and I believe the matters raised by those allegations are addressed by the recommendations in my report.

I would like to take this opportunity to acknowledge and thank those submitters who came forward to the Commission with information about their experiences of making complaints to the police. I am very aware of the impact that this experience had on those people and their courage in coming forward to assist the Commission.

I was also impressed with the quality of the people who appeared before me as police witnesses and independent experts and would like to thank them for their contribution to my inquiry.

That completes my statement. As my warrant has expired I am unable to comment further. It is now up to the Government to take the matters raised in my report further.

My report speaks for itself and I am sure that you will find answers to any questions you may have in it.

Thank you

3 April 2007