



POST-ELECTION BRIEFING TO THE MINISTER OF JUSTICE

November 2008

INTRODUCTION

The Independent Police Conduct Authority is undergoing a radical transition, from its former role as an organisation dedicated to reviewing NZ Police investigations into complaints, to an organisation that actively and transparently conducts its own independent investigations.

This transition has been undertaken in order to enhance public, complainant and Parliamentary trust and confidence in New Zealand's system of independent oversight of Police. Specifically, it responds to the recommendations of the Commission of Inquiry into Police Conduct (COIPC) and the 2000 Gallen Review.

Since early 2007, this transition has included legislative, structural and operational change. The structural changes have included hiring of additional investigative staff, establishing investigation teams, and establishing a Service Centre to receive, allocate, manage and progress complaint and serious Police incident files, and maintain contact with complainants. The operational changes have included increasingly active investigation (as opposed to various levels of oversight of Police investigations), improved communication with complainants, and steps to prioritise complaints and incidents in order to focus resources on those that are more serious.

The incoming government has urgent decisions to make about whether and how it wishes to complete this transition. Specific decisions to be made concern:

- legislative change (grant of coercive powers and amenability to disclosure rules) that had been agreed in principle by the previous Cabinet but not brought before Parliament;
- determining the Authority's appropriate Constitutional status; and
- determining the level of resourcing (and therefore level of service) appropriate to meet the Authority's statutory obligations and public, complainant and Parliamentary expectations.

The Authority has a bid for additional resources being considered in the current budget round for 2009-2010 funding. [REDACTED]

[REDACTED]

The momentum since 2007 has been considerable through increased investigations and increased publication of its investigations into serious complaints and incidents. The Authority has also acquired an international profile, as a result of which the Authority has been asked to assist with oversight of police conduct in Kenya and East Timor.

The purpose of the current budget bid is not to enhance the Authority's operation *per se* but to complete the restructuring required for the Authority to meet its statutory obligations as highlighted by the recommendations of the COIPC and accepted by the Government of the day.

As part of its bid, the Authority is seeking funding of [REDACTED] to enable it to meet its and the Government's obligations under the United Nations Optional Protocol to the Convention Against Torture. [REDACTED]

[REDACTED]

[REDACTED]

ABOUT THE AUTHORITY

Legislation

The Independent Police Conduct Authority is established under the Independent Police Conduct Authority Act 1988.¹

The Authority is an independent Crown entity under the Crown Entities Act 2004.

The Authority's role and functions

Independent Police Conduct Authority Act 1988

Under the Independent Police Conduct Authority Act 1988, the Authority's functions are to:

- receive complaints (i) alleging misconduct or neglect of duty by any member of Police or (ii) concerning any Police practice, policy or procedure affecting the complainant; or
- investigate incidents in which a member of Police (acting in the execution of his or her duty) causes or appears to have caused death or serious bodily harm.

Under the Act, when the Authority receives a complaint, it has a range of options open to it including: conducting an independent investigation; overseeing a Police investigation;

¹ The Authority was previously known as the Police Complaints Authority and was established by its enabling Act, the Police Complaints Authority Act 1988. Following the COIPC the Authority was renamed the Independent Police Conduct Authority by amendment to the enabling Act in 2007 and the enabling Act itself was renamed the Independent Police Conduct Authority Act 1988

referring the complaint to Police; reviewing a Police investigation; deferring action (for example, while police complete a criminal or disciplinary investigation); and taking no action.

When an investigation is completed, the Authority informs the complainant and the Police of its findings and recommendations, which can include recommending criminal or disciplinary action. The Authority also issues public reports.

Crimes of Torture Amendment Act 2006

Under the Crimes of Torture Amendment Act 2006, the Authority has responsibility for examining and reporting on the conditions of detention and treatment of detainees in Police custody.

This function is part of New Zealand's commitment to monitor conditions in places of detention in order to comply with the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

The Authority is one of several 'national preventive mechanisms' (e.g. Ombudsmen's office) designated under the Act. The Human Rights Commission has overall responsibility for coordinating New Zealand's programme of monitoring and reporting on places of detention in compliance with the protocol.

The Authority's contribution to government objectives

The Authority exists to support public expectations – as expressed through the will of Parliament – for the justice system to be trusted and effective.

The Authority is funded through Vote: Justice and contributes to the overall justice sector outcome '*A safe and just society*' and to the following three justice sector goals:

- accessible justice services;
- effective constitutional arrangements; and
- trusted justice system.

The IPCA's role also supports the desired Police outcomes of '*Confident, safe and secure communities*' and '*Organisational development*', and shared values of Integrity and Professionalism as outlined in the Police Statement of Intent 2008/09.

Independent oversight of Police is important for several reasons. The New Zealand Police is the only civilian agency authorised to use wide coercive powers. Independent oversight:

- protects citizens against abuse of those powers, including excessive force;
- exposes misconduct and poor practice and policy;
- provides public accountability;
- encourages internal discipline;
- protects against corruption, enhancing business confidence;

- protects against politicisation of the Police; and
- supports public trust and confidence.

The cost of failure in Police culture has been starkly illustrated with revelations over the cost to taxpayers of the sex allegations involving former Assistant Commissioner Clint Rickards (including \$4.8 million for the COIPC, \$4.6m for Police investigation, and costs for prosecution and legal aid).

History

The Authority was established in 1989 under the Independent Police Conduct Authority Act 1988. Under the Act, the Authority was required to be independent. However, it was not resourced to carry out independent investigation. Through most of its life, the Authority has comprised a single person with a small number of support staff conducting reviews of Police investigations into complaints and incidents involving alleged misconduct or neglect of duty.

The Gallen Review 2000

In 2000, Justice Rodney Gallen completed an inquiry into the Authority. Justice Gallen's review made several findings and recommendations about the Authority's operations.

In particular, it noted that there had been "criticism of the Authority substantially directed, not at the Authority as such, but at its reliance upon police investigations of complaints against the police", and stated that this reliance undermined public confidence in the Authority and discouraged people from making complaints. Justice Gallen recommended the appointment of independent investigators, but also endorsed the approach of seeking to resolve most complaints by conciliation with Police.

Justice Gallen (among others) also recommended that the Authority be changed from a single person to a three-person Board, that the Authority's independence should be reflected by making it an Office of Parliament, that less serious complaints be resolved by conciliation where possible, and that the Authority retain discretion over which matters are made public in order to protect the privacy of complainants, protect officers from malicious complaints, and allow the Authority to manage other circumstances in which confidentiality is appropriate.

Appointment of investigators

The Authority appointed its first independent investigators in 2003. Former NZ Police Assistant Commissioner Allan Galbraith was appointed Manager Investigations. Three other investigators were appointed. Between them, they have experience at policing at very senior levels in New Zealand, Canada, the United Kingdom and in leadership of United Nations policing operations. All remain with the Authority, and a fifth investigator was appointed in 2005.

With a staff of five maintaining oversight of an organisation with 10,000+ Police, the investigators' initial focus was on active monitoring and/or review of Police

investigations, rather than on fully independent investigation as is now increasingly the case as a result of the COIPC recommendations and decisions by the previous Government and Parliament (as explained below).

Commission of Inquiry into Police Conduct

The COIPC (Commissioner Dame Margaret Bazley) considered the Authority's role and the relationship between the Authority and Police. The COIPC made 12 recommendations that specifically related to the Authority. Of those, five related to legislation and seven to operations.

The operational recommendations related to:

- *Awareness* - raising awareness of the Authority's work through development of a communications strategy and publicising of the Authority's brochure and website (R21 and R22);
- *Handling of complaints* – the COIPC recommended that the Authority facilitate reception of oral complaints (R23), ensuring more regular communication with complainants (R24), seek feedback from complainants to gauge satisfaction (R25); take steps to address its backlog of complaints (R26); and exercise discretion to accept historic complaints dating back prior to its establishment in 1989 (R27).

The COIPC made the following recommendations for legislative change:

- that Police must notify the Authority of complaints within five working days of receipt (R28);
- that the Authority be required to inform the Minister of Police and the Attorney General if the Commissioner does not take appropriate action in response to the Authority's recommendations (R29);
- that the Ministry of Justice should review the secrecy provisions in the Act and make recommendations to ensure that the Act encourages a reasonable level of communication with complainants on the progress of complaints and does not inappropriately prevent the Police Complaints Authority from investigating complaints that may result in criminal or disciplinary proceedings against a member of the police (R30);
- that a three-person Authority be established with a majority of members from outside the legal profession (or, if that is not possible with a three-person Authority, consideration be given to appointing a five-person Authority) (R31); and
- that those appointed to the Authority reflect community diversity and strengthen the community's perception of the Police Complaints Authority's independence (R32).

The previous government committed itself, with wide Parliamentary support, to the implementation of the COIPC's recommendations. The subsequent changes the Authority has undertaken have been aimed at fulfilling this mandate.

Independent Police Conduct Authority Amendment Act 2007

The Independent Police Conduct Authority Amendment Act came into effect in November 2007, making the following changes:

- The Authority's name was changed from Police Complaints Authority to Independent Police Conduct Authority to better reflect its full range of functions (which includes matters that do not involve complaints) and provide a clear response to public demand for independent and robust oversight of Police.
- The Authority was changed from a single person to a Board of up to five people.
- The Authority was given power to refer complaints to Police for investigation, and to take no action on minor complaints for which there is another remedy. This allows for less serious complaints to be referred to Police for investigation and resolution, with the aim of ensuring resources are used effectively and less serious complaints are dealt with in the most timely and satisfactory manner.
- The Authority was given the same powers as Commissions of Inquiry in relation to conduct of inquiries (including powers to receive evidence, examine documents, and summon witnesses).

In addition, the amendment imposed a statutory deadline on Police for referral of complaints to the Authority, clarified that the Authority can hear complaints about historic incidents dating back to before its establishment in 1989, and required the Authority to inform the Minister of Police and the Attorney General if Police do not respond satisfactorily to Authority recommendations.

Proposed legislative amendments

In December 2007, Cabinet approved further amendments to the Independent Police Conduct Authority Act. These are explained in detail in the *Issues for Ministerial consideration* section below.

The Authority's current structure and operations

Strategic direction

The Authority's mission is to promote public trust and confidence in New Zealand Police. Its Maori conceptual name is *Whaia te pono, kia puawai ko te tika* (*Seek the truth, that justice may prevail*).

Governance and management structure

The Authority comprises:

- Justice Lowell Goddard, Chair – Justice Goddard is a Judge of the High Court of New Zealand. She was appointed to the Authority in February 2007.
- Mel Smith, Member – Mr Smith was appointed in October 2008. He is a former Ombudsman and has held several senior public sector roles.
- Allan Galbraith – Mr Galbraith was appointed in October 2008. He also serves as the Authority’s Manager Investigations, a role he has held since 2003. Mr Galbraith formerly served with NZ Police for 37 years, most recently as Assistant Commissioner.

Parliament established the Board in September 2008 when it ratified the appointments of Mr Galbraith and Mr Smith. Prior to that, Justice Goddard served as the sole Authority since her appointment in February 2007.

Management and staffing

In February 2008, the Authority appointed Fuimaono Les McCarthy as Chief Executive. Mr McCarthy served for nine years as Chief Executive of the Ministry of Pacific Island Affairs. He has also practised as a lawyer and, for 25 years, served as a member of New Zealand Police as a detective, prosecutor, and national head of Professional Standards (formerly known as Internal Affairs).

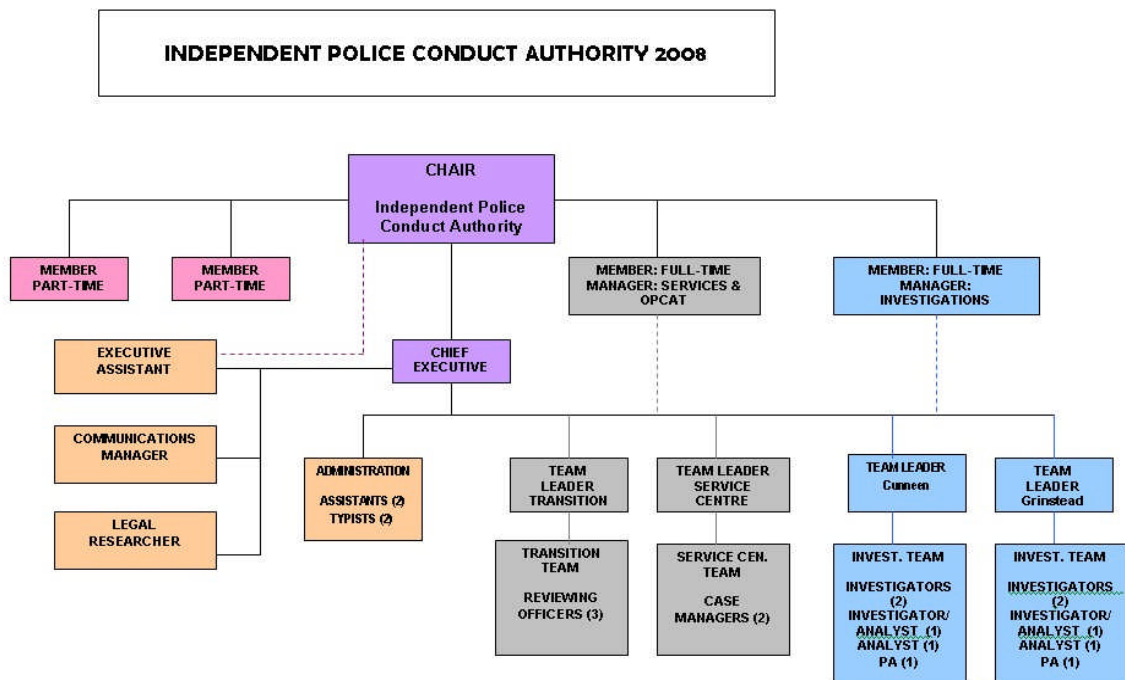
In September 2008, the Authority appointed two additional investigators and two supporting investigator/ analysts. Three of these staff have investigative experience in New Zealand policing and one has experience in UK policing and investigating for the New Zealand Commerce Commission. The teams are answerable to team leaders and to the Manager Investigations.

In 2007, the Authority appointed additional temporary staff responsible for reviewing Police investigations into complaints. This was in response to concerns about a ‘backlog’ of complaints more than 12 months old. As noted below, considerable progress has been made in this respect. A formal Transition Team was established in September 2008 with the aim of eliminating the backlog during 2008/09.

The Authority is completing the establishment of a Service Centre which will be responsible for:

- receiving, allocating (for Authority or Police investigation), managing and progressing complaint and serious Police incident files; and
- maintaining regular contact with complainants.

The Authority has also appointed administrative staff and a communications manager to provide support for its core investigative and oversight functions.



The Authority's caseload

In 2007/08, the Authority received 2073 complaints and accepted 1690 for investigation (either by the Authority or by Police under the Authority's oversight). In 2006/07, the Authority had received 2016 complaints, and in the previous four years the numbers had fluctuated between 1741 and 1956. The number received in 2007/08 is believed to be the highest in the Authority's history.

Two factors may contribute to a higher caseload in coming years. The first is the Authority's higher profile as a result of greater transparency in its operations. The second is the likelihood of a higher number of contacts between Police and members of the public in coming years as a result of (a) growth in numbers of frontline Police and (b) rising unemployment.

The Authority categorises complaints according to type of misconduct, neglect of duty or breach of practice/policy/procedure alleged. In 2007/08, the most common categories of complaint related to: neglect of duty; breaches of Police practice, policy and procedure; attitude and language; and use of force. The Authority received 48 notifications of serious bodily harm and 10 of death associated with Police actions.

The Authority's investigations

At the end of 2008/09, the Authority had 146 incidents under active investigation.

These include a number of very high profile cases, such as: an investigation into Operation Eight (the Police operation which led to raids in several locations around New Zealand on 15 October 2007 and consideration of charges under the Terrorism

Suppression Act 2002); an investigation into the Police response to the shooting of Navtej Singh in Auckland in June 2008; and investigations into Police shootings such as that of Stephen Bellingham in Christchurch in September 2007 and of Lee Jane Mettam in Whangarei in October 2008.

The Authority's investigators are still dealing with a small number of historic complaints which have particular difficulties, including an investigation into the Police shooting of Steven Wallace in 2000, and an investigation into complaints about the Police investigation into the 1997 murders of Ben Smart and Olivia Hope.

As noted above, the Authority is increasingly active in the way it conducts investigations. Whereas in past years, resourcing constraints meant that investigators were largely confined to active monitoring and/or review of Police investigations, the Authority now routinely conducts full investigations including scene examinations and interviews of witnesses. In the 2008 calendar year, on five occasions including two very high profile matters, Police have requested that the Authority alone investigate a complaint over Police conduct, leaving the Authority as the sole investigating body.

As well as becoming increasingly active, the Authority is committed to ensuring transparency in its work. During 2007/08, the Authority issued five public reports on investigations – believed to be the most in its history. In 2008/09, two reports have been released (one on a historic allegation of traffic offending by the Commissioner, and one relating to Police handling of search warrants and conflicts of interest). In the near future, the Authority will publicly report on (among others) investigations into the shooting of Steven Wallace, the Edgware Road tragedy, and the shooting of Stephen Bellingham, and on a review of Police pursuits policy.

Prioritisation of the Authority's caseload

The Authority has been working with Police to develop an agreement about which files will be investigated by the Authority and which will be investigated by Police.

The intention is that complaints will be classified to one of five categories: (1) Serious – IPCA investigation or oversight; (2) Serious – Police investigation; (3) Significant; (4) Conciliation; (5) No further action.

It is envisaged that the Authority's investigators will independently investigate or actively oversee Police investigations in the Serious (1) category. These will include all instances of death and serious bodily harm associated with Police actions, and serious complaints with high public interest (and therefore a need for demonstrably independent investigation) and/or serious implications for Police.

Complaints in the other categories will be investigated by Police under various levels of Authority oversight. The nature of that oversight will depend on the seriousness of the incident complained of.

Category (2) will include incidents that may lead to prosecution of Police officers, for example allegations of assault. The Authority will review Police handling of all Category (2) complaints.

Category (3) and (4) complaints will be subject to audit by the Authority and complainants will, if dissatisfied with the Police investigation, be able to seek a review by the Authority.

Category (5) are minor complaints requiring no action by the Authority, or complaints where the person affected is not known or does not want action taken.

Ongoing Police involvement in investigations is appropriate for several reasons: the Commissioner always has responsibility for the management of Police staff and resources; and the Authority cannot prosecute officers and a Police investigation is therefore essential if a complaint or incident raises a question of criminal offending. On some occasions, a Police criminal investigation and an independent Authority investigation will be carried out in parallel.

For less serious complaints, the Police may be able to resolve the complaint quickly and effectively at district level.

This system of allocation ensures the best use of resources and the best outcomes for complainants.

Facilitation of complaints and communication with complainants

The Authority has taken steps to fulfil the COIPC's recommendations (as accepted by the Government) in relation to facilitation of complaints and communication with complainants. The Authority now receives oral complaints, and has increased the frequency of contact with complainants.

Further ongoing improvement will occur with the establishment of the Service Centre. The Authority has set targets in its 2008/09 Statement of Intent for frequency and timeliness of communication with complainants.

Timeliness in dealing with complaints

The Authority has taken steps to ensure that complaints are dealt with in a timely manner, including (as explained above) the appointment of additional investigators and reviewing staff, and establishment of a Transition Team to eliminate the 'backlog' of complaints that have been with the Authority for more than 12 months.

During 2007/08, this 'backlog' was reduced from 1611 complaint files to 211. During 2008/09, the Authority is seeking to substantially eliminate the backlog.

Some complaints remain with the Authority for longer than 12 months for reasons beyond the Authority's control. This can include, for example, the time taken to complete court proceedings, the time taken to complete Police investigations, delays in getting information required to progress a complaint, and requests by complainants to reactive a previously closed complaint after time has passed.

Complainant profile

The Authority does not gather demographic information about complainants. The Authority is currently reviewing its approach to gathering demographic data.

Explaining the Authority's work

There are three aspects to the Authority's independence: statutory; operational (demonstrated through active investigation and independent oversight and review); and the perception of independence. Perception is important for public faith in the system of oversight of Police, and ultimately therefore faith in Police themselves.

The Authority has developed a Communications Strategy which aims to ensure that the Authority's work is understood by complainants and potential complainants, by people who may support complainants (for example, lawyers, Citizens Advice Bureaux, ethnic groups), by Police, and by the public at large.

The strategy uses a balanced approach involving direct and indirect communication with target audiences, and includes an important focus on greater transparency in the Authority's work through increased public reporting on investigations.

International profile and benchmarking

The Authority has committed to learning from examples of international best practice in civilian oversight of Police, and to that end has maintained contact with corresponding authorities in other nations.

The Authority Chair attended and spoke at an international conference on civilian oversight of Police in Canada, visited the United Kingdom and Ireland to learn from the operations of the Authority's counterparts in those countries, and is working towards establishing close contacts in Australia and the Pacific. In December, the Authority Chair will speak at an international conference in Australia on human rights in policing.

For a period during 2008, one of the Authority's investigation team leaders was seconded to serve as lead investigator for Kenya's Commission of Inquiry into Post Election Violence investigating the murders of more than 1100 people during clashes over the results of that country's 2007 presidential election. The Commission reported to the Kenyan Government and to the Panel of Eminent African Personalities which is headed by former United Nations Secretary General Kofi Annan. One of the recommendations in its final report was for the establishment of an Independent Police Conduct Authority using a model similar to New Zealand's.

At present, the Authority is responding to a request by the East Timor Government through the United Nations for assistance in mentoring their fledgling police review agency. The request was specifically for New Zealand expertise in oversight of police.

Salaries and other expenses for investigators on overseas postings are funded through the relevant international body. The Authority uses contract investigators to ensure continued progress on investigations in their absence.

For several months during 2008, the Authority provided an internship to former Zimbabwe High Court Judge Benjamin Paradza, as part of his study towards New Zealand legal qualifications.

Accountability

The Authority is accountable to the Minister and Parliament through its Statement of Intent and Annual Report. The Statement of Intent sets out performance indicators for governance, investigations, complaints, and communications.

In addition, the Authority makes four monthly reports to the Minister about its operations and, under a Memorandum of Understanding, ensures the Minister's office is informed in advance of any public releases by the Authority.

Working relationship with Police

While the Authority provides independent oversight of Police conduct, it is also essential for Police to have effective internal disciplinary systems.

Police introduced a Code of Conduct early in 2008 and have been reforming their disciplinary systems. As part of this process, Police are taking on more responsibility for the complaints/disciplinary process and for early intervention to resolve complaints.

Police and the Authority have agreements to ensure that the Authority is notified of all relevant matters and that lines of responsibility are clear when parallel investigations are being conducted.

ISSUES FOR MINISTERIAL CONSIDERATION

Proposed legislative changes

The secrecy and privilege provisions in the Independent Police Conduct Authority Act prevent information gathered in the course of an investigation by the Authority from being used in any Court or in any inquiry or proceedings.

In the course of the Commission of Inquiry into Police Conduct, the restraints imposed by the secrecy provisions – on the Authority's ability to fully and independently investigate serious incidents and complaints that could result in criminal or disciplinary proceedings against officers – were examined at some length.

As a result, the COIPC recommended (R30) that the Ministry of Justice should review the secrecy provisions in the Act, to ensure that they do not inappropriately prevent the Authority from investigating such complaints.

Responding to that recommendation, Justice has chaired a working group with Police and the Authority, which has involved other agencies ad hoc, to consider how the COIPC's intention can best be achieved. As well as examining the restraints imposed in the current Act, the group assessed the operations of numerous similar oversight bodies in other

jurisdictions – in particular England and Wales, Northern Ireland, the Republic of Ireland, Canada, and several Australian and American states.

In December 2007, the former Cabinet approved the following six proposals to enhance the role of the Authority:

1. Amend the current secrecy and privilege provisions so that information gathered during Authority's investigations can be used in subsequent proceedings. This would apply, in particular, to the prosecution of Police officers.
2. Allow the Authority to undertake its own investigations in defined circumstances. Essentially, the defined circumstances encompass the most serious incidents and complaints. Less serious matters would continue to be investigated by the Police under the Authority's oversight.
3. Allow the Authority to conduct own motion investigations into serious incidents or matters of significant public interest. The Authority's present ability to do that is limited.
4. Give Authority investigators the necessary powers to carry out their enhanced investigatory role. The powers envisaged, which are still under consideration, are similar to those exercised by the Police in respect of search and seizure, the interception of communications, tracking, with a possible power of arrest in tightly prescribed circumstances.
5. Enable the Authority to decide whether there is sufficient evidence to prosecute in certain circumstances – meaning, in essence, that the Authority would decide whether to prosecute on the basis of its own investigation.
6. Allow the Official Information Act to apply to the Authority. The Authority considers this should be limited to cases likely to proceed to prosecution and the applicable rules have yet to be decided. The tension is between the rules of disclosure in criminal trials and the secrecy provision of s.32 of the Authority's enabling Act which exists to encourage public confidence in the giving of sensitive and confidential information.

A draft Bill, encompassing the Cabinet's approved changes and evolving from the working group's deliberations, was under development as the 2008 election approached.

The significant changes to the Authority's structure, style and intent outlined throughout this paper have all been implemented with the effect of likely major changes to the Act in mind. In particular, *Prioritisation of the Authority's caseload* (Page 9) describes a stepping-stone towards the equivalent procedure proposed in the Bill.

Resourcing

The Authority has submitted a Budget bid for additional operational funding of [REDACTED], and for capital funding of [REDACTED].

This funding is not for 'new initiatives', but rather for completion of the process of transition required to fulfil the Authority's statutory roles (under the IPCA Act 1988 and the Crimes of Torture Amendment Act 2006), implement the COIPC's recommendations, and meet public, complainant and Parliamentary expectations for independent oversight of Police.

Specific applications for the proposed funding include:

- travel for investigations;
- travel for OPCAT;
- office space to accommodate additional staff;
- development of the Authority's database;
- upgrade of computer functionality;
- migration to SEE Mail (government secure email);
- communication in languages other than English;
- staff retention.

[REDACTED]

The quantum sought in this year's bid is modest, and is appropriately seen in the context of the requirement for the Authority, with a staff of 26 FTEs and a 2008/09 budget of less than \$4 million, to oversee the Police, an agency with a staff of 10,300 FTEs, a budget of \$1.3 billion, and coercive powers.

[REDACTED]

More active investigation requires more staff, travel, resources and support. The commitment to greater transparency also involves a significant commitment for investigative and support staff. As the Authority has only one office, which is in Wellington, it must provide a level of investigative infrastructure in every place it conducts investigations (temporary offices, motor vehicles, communications). Its independence prohibits it from using Police premises and other resources.

As part of its bid, the Authority is seeking funding of [REDACTED] to enable it to meet its and the Government's obligations under the United Nations Optional Protocol to the Convention Against Torture. [REDACTED]

[REDACTED]

The Authority submits that its bid should be seen in the context of the costs and risks involved in not having effective, independent oversight of Police. The existence of the Authority could also be seen as an insurance premium against Police conduct failure.

The Authority's Constitutional status

The Authority is currently an independent Crown entity under the Crown Entities Act 2004. While this status provides the Authority with operational independence in its handling of individual investigations, it also means that the Authority is accountable to the Minister and Parliament indirectly through Vote: Justice, rather than directly.

Justice Gallen in his 2000 review recommended that the Authority become an Office of Parliament. Justice Gallen noted that this structure would assure the Authority's independence and the perception of independence.

The Authority's independence is not well-served by its inclusion within the Justice departmental framework. The point is well demonstrated by the budget process. While the Authority has clear objectives to achieve under its enabling legislation and through the Government's support of the COIPC, its effectiveness is subject to the budget prioritising processes of the Justice Sector.

This means that the Authority has to compete with other Justice bids which for the most part have no legislative imperative. It is submitted that the Authority's independence will be realised in fact by its being made an Office of Parliament. The Authority does not seek immunity from the budget examination process. It does, however, seek to be separated from the myriad priorities of the Ministry of Justice and the justice sector generally.