

## Summary Report

# Allegations of conflict of interest in the policing of Operation Poacher

## INTRODUCTION

1. At about 1:30pm on Friday 2 August 2013, Mr X and Mr Y were spoken to and searched by Officers A and B on the verge of a public road in a remote area of commercial forest in Berwick, Otago. Officer B was off-duty at the time of this incident.
2. Despite denying that they were pig hunting, Mr X's hunting equipment was seized and both men were prosecuted for illegally hunting on private forestry land. The two men also received blanket trespass notices which banned them from accessing 147 forestry blocks in Otago and Southland.
3. On 15 August 2013, Mr X complained to the Independent Police Conduct Authority (the Authority) about the actions of the two Police officers. Because the matter was to be heard in court, the Authority declined to investigate the complaint. On 20 January 2014, the matter was heard in the Dunedin District Court, and the charges were dismissed.
4. On 30 January 2014, Mr X and Mr Y complained to the Minister of Police about the incident, and the complaint was referred to Police. On 31 January 2014, Mr X made a further complaint to the Authority about the officers' conduct. On 13 February 2014, these complaints were reiterated by Mr X's and Mr Y's lawyer. Their lawyer also raised concerns that the officers had conducted an unlawful search, abused their authority by issuing the trespass notice and had an inappropriate employment relationship with local forestry companies.
5. In mid-2013 and early 2014, the Authority received two other complaints making similar allegations about the conduct of the two Police officers and the blanket trespass scheme which Police facilitate.
6. The Authority conducted an independent investigation into the incident which occurred on 2 August 2013, and also the broader Police conduct and conflict of interest issues raised by all three complaints. This report sets out the results of that investigation and the Authority's findings.

## BACKGROUND

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7. The Authority's investigation is set in the context of public access to privately owned forestry land in Otago and Southland for the purpose of pig hunting.
8. Pig hunting on privately owned forestry land without permission is an offence under section 8(2) of the Wild Animal Control Act 1977 (the Wild Animal Control Act). However, most forestry companies allow recreational hunters to access the land on a restricted basis. Public access is mostly controlled by permit, although some hunters may have private access arrangements. Individual hunters apply for a hunting permit using a competitive online ballot system. Only one permit per forestry block is usually granted over the weekend period for safety reasons.
9. Pig hunting as a pastime can be highly competitive by nature and hunters are protective of their right to hunt in certain areas. The Authority is aware that this can lead to defensive behaviour and ill-feeling amongst some members of the pig hunting community.
10. The two officers who are the subject of this report, Officers A and B, are themselves keen pig hunters. Officer A states that he does not hunt on forestry company land, while Officer B says that he has mostly used the public ballot system to access forestry land. Both officers say that they have used radio tracking dog collars in the past, not knowing it was illegal to do so.
11. The fact that these officers are themselves recreational pig hunters has caused some members of the local pig hunting community to point to the officers having a conflict of interest, and to question their motivation for law enforcement action undertaken on forestry land.

### Operation Poacher

12. Between 2007 and 2009 a spate of theft, drug, vandalism and poaching offences occurred in the forests in and around Berwick, near Mosgiel in Otago, and throughout the Southern Police District<sup>1</sup>. In order to deter ongoing offending on forestry land, local Police officer Officer A, his supervisor (Officer C) and Police officers based in Balclutha proposed the development of a co-ordinated policing approach named 'Operation Poacher.'
13. The proposal was for Operation Poacher to be modelled on an existing blanket trespass scheme which Police co-ordinated in Maungatua, Otago. Under this scheme, people issued with a trespass notice were barred from accessing all land belonging to participating landowners. This type of trespass notice is called a 'blanket trespass notice.'
14. The officers did not seek a legal opinion about the use of blanket trespass notices when planning Operation Poacher, or check whether blanket trespass notices were consistent with Police policy.

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<sup>1</sup> The Southern Police District includes the Otago and Southland regions.

15. On 5 February 2010, Officer A organised a meeting with eight<sup>2</sup> local forestry company representatives to discuss the proposal. At Officer A's suggestion, the forestry companies agreed to delegate authority to Police to issue a blanket trespass notice to any person reasonably suspected to be acting illegally on forestry land. That person would be banned from hunting on 147 forestry blocks managed or owned by the participating forestry companies for a period of two years.
16. Police from Balclutha initially offered to administer the scheme and drafted the blanket trespass notice by adapting a standard Police trespass notice template.
17. At the meeting, Officer A says that he disclosed to the forestry companies that he was a keen pig hunter, but stated that he did not hunt on forestry land and would not do so in future. Officer A had previously discussed his pig hunting interest with Officer C in the context of his involvement with Operation Poacher, and both agreed the fact that Officer A did not hunt on forestry land was sufficient to manage any concerns that Officer A "*was going the extra mile*" for the forestry companies. They also agreed to document enforcement action taken under Operation Poacher to ensure transparency. Officer C considered that Officer A's hunting experience would be an asset to the implementation of Operation Poacher.
18. In 2012, Officer A took over the day-to-day running of Operation Poacher and became the main point of contact for the forestry companies. Information about suspicious activity on forestry land was passed to Officer A. This information included sightings by authorised hunters or footage of unauthorised vehicles captured by forestry companies' CCTV cameras.
19. Officer A told the Authority that most incidents were merely noted. However, if he believed that the matter warranted further investigation, a Police file would be generated and the person would be spoken to by either Officer A himself or a local Police officer. If the person could not provide Police with a reasonable explanation for their presence on or near forestry land, that person might be given a warning or issued with a blanket trespass notice after consulting with the forestry company concerned. The trespass notice was recorded in the Police database and the file checked by Officer C. Officer A estimates that he was notified of approximately 50 incidents in the year to June 2014, 12 of which warranted a trespass notice being issued. Officer A recalls three prosecutions resulting from Operation Poacher.
20. Officer B says that his role was limited to advising Officer A about suspicious activity which he saw himself or was alerted to by his hunting friends. Officer B also assisted with reviewing CCTV footage provided by forestry companies. He says that he decided not to become involved in serving trespass notices because he is known to hunt on forestry blocks and he "*just didn't think it'd be seen to be right.*"
21. Officer A says that Operation Poacher has successfully reduced the amount of crime on forestry land, and by August 2013 focused mainly on poaching. The operation has since been replicated in Central Otago.

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<sup>2</sup> Two more forestry companies joined the scheme soon afterwards, bringing the number of participating forestry companies to ten.

22. While supported by the forestry companies, Operation Poacher has also generated some ill-feeling in the local pig-hunting community. The Authority has received three separate complaints from local pig hunters, and a complaint from Mr X's and Mr Y's lawyer, which question the way Police have enforced the blanket trespass scheme. During the course of its investigation, the Authority spoke to several other local hunters who also raised similar concerns. These concerns can be summarised as:
- Police officers making unjustified accusations of poaching
  - Police officers abusing their authority by issuing blanket trespass notices in unfair circumstances
  - Police officers receiving access privileges to forestry blocks
  - Police officers using their authority to exclude hunters from forestry blocks in order to protect their own hunting interests
  - Police officers providing security services to forestry companies
  - Use of police cameras to provide security services for forestry companies
  - Unlawful confiscation of hunting equipment
  - Police officers selling confiscated equipment
  - Police officers using illegal radio dog tracking equipment.
23. In addition, both Mr X and his lawyer raised concerns about the actions of Officer A and B during an incident which occurred in Berwick, Otago on 2 August 2013.

### Events of 2 August 2013

24. At approximately 1:30pm on Friday 2 August 2013, Mr X and Mr Y were driving in Mr X's blue Hilux ute on West Boundary Road in Berwick, Otago. West Boundary Road is a remote, dead-end public road which passes through land owned by Forestry Company B. The movements of Mr X and Mr Y on West Boundary Road, and the subsequent interaction between the men and the Police officers is in dispute.
25. Meanwhile, Officers A and B were in Berwick forest installing CCTV cameras provided by Forestry Company A on their land. Officer B was aware that the gates and fences had been damaged by hunters trying to access the forestry block illegally and had asked the manager if he wanted the cameras installed. Officer B had requested Officer A's expert assistance with positioning the cameras to detect this activity. Officer A says that he was aware that the cameras were not Police property, but did not know that they belonged to the forestry company. Officer A says that he told his supervisor what he was planning to do before leaving the station.

26. The officers were wearing plain clothes so as not to attract public attention to the location of the new cameras. They had also driven into the forest in Officer B's private four wheel drive vehicle. Officer A was on duty at the time, but Officer B was not.
27. As the officers were driving up to the intersection of Doon Flats and West Boundary roads they saw a Hilux ute driving through the intersection and heading into the forest. The ute had a quad bike and a dog box on the back. Knowing that hunting access was only permitted in the weekend, the officers turned onto West Boundary road and followed the ute. They intended to follow the occupants to see what they were doing.
28. The officers say that the ute "*sped away from them*" and they lost sight of it. They drove on to the end of the road, but did not see the vehicle. Officer A later told the Authority that he did not believe that the ute had reached the dead-end. The officers checked that the gate leading into the forestry block was secure, then drove back up West Boundary Road until they spotted the ute parked in a layby and partially hidden from the road by vegetation. They were suspicious that the ute had been deliberately concealed, so they pulled over and parked on the other side of the road.

#### *Mr X's and Mr Y's version of events*

29. Mr X and Mr Y both told the Authority that they had driven into the forest to look for signs that wild pigs were in the area. They had a permit to hunt in the forest on the following day. They say that they took their hunting equipment and two dogs with them because, after visiting the forest, they thought they might hunt on nearby farmland which Mr X had permission to access.
30. Mr X told the Authority that he drove to the end of West Boundary Road, turned around, drove back up the road and pulled into a layby to have a cigarette. He did not notice any other vehicles on the road. The layby was partially concealed from the main road by trees and bushes.
31. Mr Y says that Officer A walked over to the front passenger seat window, and briefly introduced himself as a Police officer. He flipped his identification card at them. He didn't introduce or identify Officer B as a Police officer, and Officer B didn't identify himself.
32. Mr X says that Officer A asked them what they were doing, and Mr X replied that they were just going for a drive. Officer A asked for Mr X's gun licence and checked it. Mr Y remembers Officer A saying that he was going to conduct a "*search under the Wild Animal Act.*"
33. Officer A asked Mr X to pass him the tracking equipment which was sitting on the ute's dashboard. He then asked Mr X if there were any guns in the car. Mr X told the officer that he had some guns under a jacket on the backseat, and he leaned backwards to show Officer A where they were. However, he says that he was surprised that the officer could see them through the tinted windows of the ute. The officer told him "*No, leave it.*"

34. Both men say that Officer B, who was standing beside Officer A, pulled Mr Y out of the ute by his arm. Officer A came around to the driver's side, but Mr X says he decided to get out himself before Officer A reached him. The officers then told them to empty their pockets on to the bonnet of the ute and patted them down.
35. Mr X says he objected to what the officers were doing and told them that they were not hunting, and doing nothing wrong. He says that he was told to "shut up." The men say that Officer B then took all their hunting equipment out of the ute, and "biffed" it on the ground. This equipment included (amongst other things) two shotguns, two 'Garmin Astro' radio tracking dog collars, hand-held radios, a spotlight, a hunting knife and ammunition.
36. Mr X says he picked up his mobile phone and took some photos of Officer B as evidence because he didn't know who he was. Both men say that Officer B told Mr X to delete these photos, then ripped the phone out of Mr X's hand and started looking through all the photos. Mr X again objected and says he told Officer B that he couldn't touch his phone.
37. Mr X says that Officer A also looked through the photos, including pictures of previous hunting trips, and threatened that he would find out where Mr X had been hunting and he would never be allowed back there again. Mr X says he argued with the officers, and he was then told that he would not get his gun licence back, and Mr Y would never be able to get one. The officers then loaded the hunting equipment into their vehicle and told them to leave the forest.
38. As they were leaving, the men say that they tried to note down the registration number of the Police officer's vehicle. The officers deliberately obstructed their view of the number plate. The men say that Officer B told them if anything happened to his truck they would be the first people he would come and see.
39. The men laid a complaint about the conduct of Officers A and B with Police later that afternoon.

#### *Police officers' version of events*

40. Officer A says that he introduced himself by name as he approached the men in the ute, and showed them his identification badge before asking them what they were doing in the forest. The men told him that they were out for a drive and weren't hunting.
41. Officer B says that he noticed that the men had their dogs with them. When asked, Mr X and Mr Y could not explain why this was the case if they weren't hunting.
42. Officer A says he could see a hunting knife, dog tracking equipment sitting on the dashboard and two firearms lying on the back seat of the ute. He told the men that it looked like they were going hunting.

43. Officer A says that he again advised the men of his name, and that he intended to search their vehicle under the Search and Surveillance Act<sup>3</sup> and the Wild Animal Control Act. He then explained that these laws allowed him to seize their hunting equipment.
44. Officer A says he introduced Officer B as a police officer, but not by name. He told them that Officer B would be assisting with the search, and asked them to get out of the vehicle. Officer B denies forcefully removing Mr Y from the ute.
45. Officer A says he was aware that he had no legal authority to search Mr X and Mr Y. Both officers agree that they patted the men's pockets after the men emptied them.
46. Officer B says he laid the men's hunting equipment on the ground. Officer A took photos of the hunting equipment and of where the ute was parked.
47. Officer B denies ripping Mr X's phone out of his hand. He says that he did not want Mr X to take photos of him and his vehicle because he feared that the photos would be posted on social media websites and his vehicle could be targeted.
48. Officer B says he asked Mr X to show him the photos, and Mr X held out his phone. However, the glare on the screen meant he could not see them properly, so he "*grabbed*" the phone to tilt it on a better angle and Mr X let go of it. Officer B then looked through a couple of the photos to check there were none of him. Officer A says he saw several photos of wild animals on Mr X's phone. Officer B then either gave the phone back to Mr X or put it on the bonnet of the ute.
49. Officer A acknowledges that he did not have any Police notification documents with him. He says that he showed the men his Police badge and gave the men his business card, and told them that they would be issued with receipts for their seized equipment, as well as court summons and a trespass notice at a later date. He says that he explained that the trespass notice meant that they would no longer be allowed to hunt on private forestry land. Officer A says that he later attempted to serve these documents on Mr X and Mr Y on various occasions but was unable to locate them.
50. Officer B agrees that he spoke to the men when they attempted to write down the registration number of his vehicle as they were leaving. He told them that if anything happened to his vehicle they would be the first people to be visited. However, Officer B says he did not intend this to be threatening.

### Events following the incident on 2 August 2013

51. Mr X and Mr Y were both issued blanket trespass notices. On 29 August 2013 they appeared in the Dunedin District Court and pleaded not guilty to a charge of unlawful hunting.

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<sup>3</sup> Search and Surveillance Act 2012.

52. On 31 October 2013 Officer A sent the 'Garmin Astro' radio tracking dog collars to Radio Spectrum Management (RSM) at the Ministry of Business, Innovation and Employment in order to obtain information from the devices about where Mr X and Mr Y had been hunting in the past to support the charges of unlawful hunting. It is an offence to possess or use certain radio tracking devices in New Zealand. RSM decided to prosecute Mr X and Mr Y under the Radiocommunications Act 1989.
53. On 20 January 2014, the matter was heard in the Dunedin District Court. A significant proportion of the evidence and cross-examination heard in court related to the fact that both officers were themselves hunters and whether this created a conflict of interest when performing their duties; and that Officer B was off-duty and using his private vehicle during the incident.
54. The Court accepted a submission from Mr X's and Mr Y's lawyer that there was no case to answer because there was insufficient evidence to prove the charge of unlawful hunting. The charges relating to the radio tracking collars were withdrawn on the basis that Mr X paid a \$350 infringement fee on those charges which he had admitted.
55. In his full decision delivered on 13 March 2014, the Judge commented that he considered it likely that the search of the defendant's vehicle was unlawful, although he did not make a finding on this point. In his view, the officers were determined to stop and search the men whether or not there was any good reason to believe that an offence had been committed.
56. The Judge also commented on inconsistencies in both officers' evidence with respect to what they were doing in Berwick forest prior to seeing Mr X's vehicle and where they said Mr X's vehicle was parked.
57. On 16 February 2014, following an email conversation with Mr X's and Mr Y's lawyer about the outcome of the defended hearing, the District Commander withdrew the trespass notice.

## Complaints

58. The Authority received complaints from Mr X, Mr Y and their lawyer on 15 August 2013, 31 January and 13 February 2014. These can be summarised as:
  - The decision to issue a blanket trespass notice to Mr X and Mr Y on 2 August 2013 was an abuse of authority given the men were only close to land owned by one of the ten listed forestry companies.
  - Officers A and B have a conflict of interest because they are pig hunters themselves, and because they have an inappropriate relationship with local forestry companies.
  - The actions of Officers A and B on and after 2 August 2013 were unlawful, contrary to Police policy or undertaken in bad faith.



## Police involved

59. Officer A is based at Mosgiel Station. He has 24 years' experience in the New Zealand Police. He is a keen pig hunter, and states that he only hunts on private farm land with the owners' permission.
60. At the time of this incident, Officer B had seven years' experience, but has since left the New Zealand Police. Officer B was based at Dunedin Police Station. Officer B is also a keen pig hunter and hunts on forestry companies' land. He says that he applies for hunting permits, but also has casual access arrangements with at least two forestry companies.
61. Officers A and B have both used radio dog tracking equipment in the past, without realising that this was illegal.
62. Officer C has 29 years' experience in the New Zealand Police. He is Officer A's supervisor.

## The Authority's investigation

63. The Authority interviewed Mr X and Mr Y, their lawyer, and other hunters who had made related complaints. The Authority also spoke to representatives of local forestry companies as well as relevant Police officers.
64. The Authority visited the scene of the incident on 2 August 2013.

## Forestry companies

65. The Authority spoke to representatives of several local forestry companies as part of its investigation. The representatives spoke positively about their individual dealings with Officers A and B, and believed that Operation Poacher was beneficial and effective. They deny employing either officer to carry out security work.
66. A manager from Forestry Company A says that Officer B had installed the company's CCTV camera prior to 2 August 2013. On the day of the incident, Officer B told him that he was going to check the camera and do some hunting.
67. Forestry Company A's representative also told the Authority that he thought that Officer A hunted with Officer B on the forestry company's land.
68. Representatives from Forestry Companies B and C told the Authority that Officer A did not hunt on their land. Forestry Company C's representative told the Authority that Officer A installed Police CCTV cameras on their land temporarily to monitor ongoing damage to their fences.
69. Representatives from Forestry Companies A and C said that Officer B was permitted to hunt on their land on weekdays if he obtained the permission of a manager.

### Trespass

70. Section 4(2) of the Trespass Act 1980 provides that, where an occupier of any place has reasonable cause to suspect that any person is likely to trespass on that place, he or she may warn that person to stay off that place. The warning may be in the form of a written trespass notice. An occupier may delegate another person to issue that warning on his or her behalf.

### Police policy on trespass

71. Police policy on trespass discourages the use of trespass notices except where there is a clear need and reasonable cause to suspect that the individual concerned will trespass on every location listed in the trespass notice.
72. The policy includes a specific section on blanket trespass notices which, as written, is confined to the use of these notices at licensed, commercial and retail premises. It states that, in general, Police should discourage schemes that promote the use of blanket trespass notices because of the fundamental legal requirement to foresee a reasonable risk of trespass on every premises listed on the notice. Police are also discouraged from issuing blanket trespass notices on behalf of occupiers unless a good reason exists.

### Conflict of interest policy

73. Police policy<sup>4</sup> defines a conflict of interest as:

*“a situation where a Police employee’s public duty or employment responsibilities to the Police could be adversely affected or reasonably perceived to be adversely affected, by an investigation in which the investigator has a private or personal interest. ... A conflict of interest may also apply where an investigator demonstrates predetermination or bias when conducting an investigation or creates the perception of predetermination or bias.”*

74. Conflicts of interest are discussed in more detail in paragraphs 90-92 of this report.
75. Police policy requires police employees to identify potential and actual conflicts of interest and manage them appropriately to ensure that the integrity of an investigation, including a criminal investigation, is maintained and able to withstand public scrutiny.
76. Prior to undertaking the investigation, the police employee must declare the actual or perceived conflict of interest to their supervisor and complete the appropriate declaration form. The supervisor should ensure that the declaration has been completed, consider how the actual or perceived conflict can best be managed, and document their decision making process. The supervisor may choose to assign a different individual to the task to maintain the perception of objectivity.

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<sup>4</sup> Current in February 2010.

## Policy relating to actions undertaken by off-duty Police officers

77. A police officer retains all powers and responsibilities while off-duty and may act at any time if they believe assistance or intervention is necessary and appropriate in the circumstances.
78. Sound judgment and discretion must be applied to determine whether it is appropriate to intervene or provide assistance in the particular circumstances. Factors to consider include (amongst other things) the seriousness of the offending, whether the off-duty officer is adequately equipped to safely act, and whether the situation needs to be resolved immediately.
79. Having decided to act, where practical the off-duty officer should show his Police identification or clearly identify himself as a Police officer to suspected offenders or bystanders as soon as possible.

## Law relating to hunting offences and search and seizure powers

### *Wild Animal Control Act 1977*

80. Section 8(2) of the Wild Animal Control Act 1977 makes it an offence to hunt (or attempt to hunt) on any land without the express authority of the owner or occupier of that land.
81. Section 13 of the Wild Animal Control Act 1977 gives a police officer a range of search and seizure powers where the officer is acting in the exercise of his duty and has good reason to believe that an offence is about to be, is being or has been committed against the Act. These include:
  - section 13(1)(a)(iii), that permits a Police officer to search a vehicle if there is good reason to believe an offence against the Act has been committed;
  - section 13(1)(c), that permits a Police officer to seize, amongst other things, ammunition, firearms, dogs, vehicles and devices that he or she has good reason to believe have been used, are being used or are about to be used in contravention of the Act.
82. Section 13(10) of the Wild Animal Control Act 1977 provides a Police officer with powers under Part 4 of the Search and Surveillance Act 2012, with the exception of the powers in sections 118 and 119 of that Act, when exercising his or her duty.

### *Search and Surveillance Act 2012*

83. Section 85 of the Search and Surveillance Act 2012 provides that an officer who has arrested or detained a person under a statute may pat his hand over the clothed body of that person in order to ensure that the person is not carrying anything that may be used to harm any person; or to facilitate the person's escape.

84. Section 110(h) of the Search and Surveillance Act 2012 permits an officer exercising a search power to use any reasonable measures to access a data storage device located (in whole or in part) at the place, vehicle, or other thing if any intangible material that is the subject of the search may be in that device.

## THE AUTHORITY'S FINDINGS

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### Should Police have issued a blanket trespass notice to Mr X and Mr Y?

85. Mr X, Mr Y and their lawyer have complained that Officer A abused his authority by trespassing the men from large amounts of forestry land owned by various forestry companies, despite the fact that the land was nowhere near the location where the men were spoken to by Police.
86. Paragraph 70 explains that the law requires an occupier of a place to have reasonable cause to suspect that a person is likely to trespass on that place before he or she can warn a person to stay off that place. This legal principle also underpins the Police's policy on trespass.
87. As written, Police policy on blanket trespass notices is confined to circumstances involving licensed, commercial and retail premises (see paragraphs 71-72). However, Police officers are discouraged from promoting or participating in blanket trespass notice schemes because of the underpinning legal principle discussed above, and the difficulty of establishing any reasonable likelihood that an individual will trespass on every location named on a blanket trespass notice.
88. It is therefore clear that the reasoning that underpins the policy discouraging their use is as applicable to commercial forestry land as it is to licensed, commercial and retail premises.
89. Officer A told the Authority that hunters can offend on more than one forestry block, and that information collected during Operation Poacher shows that some have a propensity to continue to offend on various forestry blocks. The Authority does not question this. However, in the circumstances, Officers A and B could not have reasonably suspected that Mr X and Mr Y would be likely to trespass on all 147 forestry blocks in Otago and Southland. It is therefore clear that the legal test for the issue of blanket trespass notices was not met.

### FINDING

Police did not have sufficient evidence against Mr X and Mr Y to justify issuing them a blanket trespass notice.

## Did Officers A and B undertake Police duties under Operation Poacher which resulted in a conflict of interest?

90. A conflict of interest exists when a person's duties or responsibilities to a public entity could be affected by some other interest or duty that the person may have<sup>5</sup>.
91. A perceived conflict of interest arises where a fair-minded observer might reasonably form the view that an individual might not bring an impartial mind to the exercise of his or her duties or responsibilities<sup>6</sup>.
92. The existence of a conflict of interest does not necessarily mean that someone has done something wrong, or that the interests of the public entity have suffered<sup>7</sup>. The perception of the conflict is enough in itself to undermine confidence in the integrity of police or any other public sector work.
93. The Authority has not found sufficient reliable evidence to conclude that either Officer A or Officer B have acted in an intentionally corrupt manner when undertaking enforcement action under Operation Poacher. There is no evidence that either officer:
- undertook private security work for local forestry companies;
  - sold unlawfully confiscated hunting equipment; or
  - deliberately excluded other hunters from preferred hunting grounds using their status as Police officers.
94. The Authority also accepts that Operation Poacher was set up for genuine police reasons: to detect poaching and deter other unlawful activities on forestry land.
95. However, both officers disclosed to the court during Mr X's and Mr Y's defended hearing, and also to the Authority, that they have used illegal radio dog tracking equipment in the past, albeit unknowingly. This is an offence under section 113 of the Radiocommunications Act 1989.
96. Officer A also disclosed the use of this equipment to the regulatory agency, RSM. RSM considered whether to prosecute Officer A, but decided against it because of a lack of corroborating evidence and because the matter had been reported to them outside of the statutory time limit which was in place at that time.

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<sup>5</sup> Officer of the Auditor-General, Managing conflicts of interest: Guidance for public entities (1 June 2007) at paragraph [2.1]. This report is available electronically at <http://www.oag.govt.nz/2007/conflicts-public-entities/docs/oag-conflicts-public-entities.pdf>.

<sup>6</sup> See *Muir v Commissioner of Inland Revenue* [2007] 3 NZLR 495 (CA) at paragraph [62], affirming this as the test for apparent bias.

<sup>7</sup> Auditor-General (2007) at paragraph [1.9].

## *Officer B*

97. In the Authority's view, the fact that Officer B hunted on forestry land while also policing unlawful activities on that land put him in strong position of conflict, and created the potential for abuse of authority.
98. The Authority's investigation found that local hunters knew that Officer B hunted on forestry land and believed that he used his position as a Police officer to influence who could and could not access this land for hunting.
99. In most cases, Officer B says that he accessed forestry blocks using the public permit system. However, in the case of land owned by two separate forestry companies, he was able to ring up the manager and ask if he could obtain a permit or hunt in the forest that day. In this way, unlike most other hunters, he was not restricted to using the online ballot system to secure a permit or only hunt in the weekend.
100. When hunting in his personal time, Officer B would provide information directly to Officer A about suspicious activity he saw when he was hunting on a forestry block under a permit. He told the Authority that it was his obligation as a permit holder to report suspicious activity.
101. Officer B also took part in reviewing CCTV evidence provided to the Police by forestry companies. However, he chose not to issue trespass notices to hunters himself because he felt that it conflicted with his personal interest in pig hunting.
102. Officer B was a constable based in Dunedin, and his day-to-day duties did not extend to routinely investigating unlawful activities on forestry land. Officer B's supervisor advised he was not aware of the extent of his involvement in Operation Poacher, but also says that Officer B never asked to carry out duties connected with Operation Poacher during his shifts. Officer B disputes that his supervisor did not know about the work he was doing, and says his supervisor helped him analyse footage from CCTV cameras on more than one occasion.
103. The Authority accepts that Officer B appeared to be acting for the forestry companies. This perception was compounded by his off-duty activities, whether reporting the presence of other hunters on forestry land or using his private vehicle to go and install a forestry company's CCTV cameras.
104. In addition, others were likely to perceive that action taken against suspected poachers by Officer B was intended to further his own interests. Poachers erode the available hunting stock; and may also compromise the willingness of the forestry companies to allow permitted hunters access to their land.
105. These factors led to the potential for abuse of Police authority. If Officer B was minded to, he could have issued a trespass notice specifically to reduce the number of hunters competing with him for access permits and wild pigs in his preferred hunting grounds.

106. Officer B should have recognised his significantly compromised position and declared this to his supervisor, as required by Police policy. As noted above, there is a conflict in the evidence provided by Officer B and his supervisor about his supervisor's knowledge regarding Officer B's involvement in Operation Poacher. Regardless, Officer B should have ensured there was a more transparent and documented process for reporting suspicious incidents that he came across in the forest while hunting.

### *Officer A*

107. The Authority does not consider that Officer A was in the same position of conflict as Officer B. The same considerations do not apply because the Authority has found no evidence that Officer A hunted on forestry company land whilst working on Operation Poacher, and he was therefore not in a position to personally benefit by trespassing other hunters from forestry company land.

108. Further, Officer A and Officer C did turn their mind to the existence of a conflict of interest at the inception of Operation Poacher because Officer A declared his interest in pig hunting. Officers A and C believed that they had adequately managed any conflict through Officer A's assurance to the forestry companies that he had never hunted on forestry land, and that he would not do so in the future. Officer A also saw the investigation process undertaken before a trespass notice was issued, his documenting of decisions and the oversight of his supervisor as important parts of the conflict management process.

109. The perception of conflict which has attached to Officer A is primarily because of his association with Officer B. Officer A's involvement in installing Forestry Company A's cameras on 2 August 2013, when accompanying Officer B in the latter's private vehicle, made it appear that he was also working for the forestry company and that his motives for issuing trespass notices on forestry land could be linked to this arrangement.

### *The installation of cameras on Forestry Company A's land on 2 August 2013*

110. It is the Authority's view that the Police officers should not have gone to install Forestry Company A's own CCTV cameras on the company's land. It was inappropriate for two Police officers, regardless of whether or not they were on duty and ostensibly acting under Operation Poacher, to undertake an activity on behalf of a private company. The officers' actions created, at best, a strong perception that they were working for the forestry company.

111. Officer B states that he arranged to install CCTV cameras belonging to Forestry Company A on forestry land near Berwick forest on 2 August 2013 after hearing from the manager and fellow hunters about ongoing damage to the access gates by poachers. He also told the Authority that he had found evidence of cannabis plantations while hunting there. He says that he believed that cameras would assist to capture offenders' car licence plates, and that this was consistent with the aims of Operation Poacher.

112. Officer B asked for Officer A's assistance to install the cameras. Officer A was aware that the cameras did not belong to Police, but did not ask who they belonged to.

113. The installation of the cameras directly benefited Forestry Company A, whose own headquarters was a significant distance away and whose employees needed to travel to monitor who was accessing their land.
114. The Authority has not found any evidence that Officer A or B received a financial benefit from Forestry Company A for installing the cameras. However, as discussed above, Officer B did have access privileges to the forest and also derived the indirect benefit that the land he hunted in would be better protected from poachers.
115. Officer A was an experienced Police officer at the time and should have better considered the position he was putting himself in when installing cameras of unknown origin on private land while he was on duty.
116. The activities of the two officers prior to seeing Mr X's ute were of some concern to the court during the defended hearing. As discussed in paragraph 56 of this report, the Judge was dissatisfied with reliability of the evidence provided by the officers about the installation of CCTV cameras.
117. The Judge questioned Officer A about whether the installation of the cameras on the forestry company's land was sanctioned by Police. The Judge asked Officer B why he chose to undertake police duties while he was off-duty, and why he chose to use his private vehicle.
118. The officers' activities on that day ultimately undermined the Police's prosecution of Mr X and Mr Y.

## FINDINGS

The Authority has not found any evidence that either Officer A or Officer B have acted in a corrupt manner when undertaking enforcement action under Operation Poacher.

Both Officer A and Officer B committed an offence under section 113 of the Radiocommunications Act 1989 by using illegal radio dog tracking equipment, albeit unknowingly. The limitation period for bringing a prosecution expired before the offending was reported to Radio Spectrum Management.

The fact that Officer B hunted on forestry land while also policing unlawful activities on that land put him in a strong position of conflict, and created the potential for abuse of authority.

Officer A together with his supervisor took steps to mitigate a conflict of interest arising from Officer A's interest in pig hunting. The Authority has found no evidence that Officer A hunted forestry company land whilst working on Operation Poacher.

Officers A and B should not have installed CCTV cameras on behalf of Forestry Company A on 2 August 2013. This created a strong perception that the officers were:

- working for the forestry company; and
- at risk of abusing their authority.



## Were the actions of Officers A and B on 2 August 2013 and afterwards lawful, consistent with Police policy and conducted in good faith?

119. Mr X, Mr Y and their lawyer raised several complaints about the actions of the two officers on 2 August 2013 and afterwards. These complaints are addressed below.

### *Did Officers A and B have reasonable grounds to stop Mr X and Mr Y?*

120. The officers did not stop Mr X and Mr Y. It is undisputed that the men were sitting in Mr X's ute, which was parked in a layby on the side of West Boundary Road when the officers approached them and spoke to them.

### FINDING

Mr X and Mr Y had already stopped by the side of the road when Officers A and B came across them, and therefore were not stopped by Police.

### *Was the search of Mr X's ute lawful?*

121. As outlined in paragraph 81, section 13(1)(a)(iii) of the Wild Animal Control Act permits a Police officer to search a vehicle if there is good reason to believe an offence against the Act has been or is about to be committed. As outlined in paragraph 80, it is an offence to hunt on any land without permission of the owner or occupier.

122. In his decision, the Judge said that he was inclined towards the view that the search conducted by the officers was unlawful; however, he did not make a finding on this point. The Judge believed that the officers were determined to stop and search Mr X and Mr Y based solely on their presence on the public road and regardless of a good cause to suspect an offence had been, or was about to be committed.

123. The officers say that they suspected that Mr X and Mr Y were in the forest to hunt illegally when they saw the vehicle with a dog box and quad bike on the back, during a weekday when hunting was not permitted. Despite assurances from the men that they had not been hunting, Officer A says that his suspicion became a belief when he saw the hunting knife, dog tracking equipment and the firearms in the ute, and Officer B confirmed that there were dogs in the dog boxes.

124. Mr X disputes that Officer A would have been able to see the firearms on the back seat of the ute because they were covered by clothing and the windows of the ute are tinted. Regardless of this, and based on the circumstances, the Authority accepts that the officers had good reason to believe that the men had been hunting illegally.

125. Despite being on a public road, the men were deep within remote forestry land at a time of the week when hunting was not permitted. Hunting equipment, including their dogs, were clearly visible in the ute. They appeared also to have parked to evade detection from the road.

126. It does not follow from this finding that the Authority believes that Mr X and Mr Y were hunting on 2 August 2013. The Authority merely accepts that, on the balance of probabilities, the officers had sufficient evidence to believe that an offence had been committed, and further investigation was lawfully justified.

## FINDING

Officers A and B had sufficient evidence to believe that an offence had been committed, and further investigation through searching Mr X's ute was justified.

### *Were Officers A and B legally justified in personally searching Mr X and Mr Y?*

127. Mr X and Mr Y say that they were “*patted down*” or “*frisked*” by the Police officers.
128. Both officers say they patted the outside of Mr X's and Mr Y's pockets after they had emptied the contents of their pockets onto the bonnet of the ute, to ensure that no dangerous items were concealed.
129. When exercising a search power, Police officers ordinarily have the power to detain a person to determine if they are connected to the purpose of the search under section 118 of the Search and Surveillance Act 2012. Section 85 of the Search and Surveillance Act then authorises a Police officer to pat his hand over the clothed body of that person in order to ensure that the person is not carrying anything that may be used to harm any person; or to facilitate the person's escape (see paragraph 83).
130. However, in this case, the officers were exercising search powers under the Wild Animal Control Act 1977. Section 13(10) of the Wild Animal Control Act specifically excludes Police officers from detaining a person under section 118 of the Search and Surveillance Act (see paragraph 82).
131. Therefore, the officers did not have a statutory power to detain Mr X and Mr Y, and section 85 of the Search and Surveillance Act did not apply in the circumstances. The pat-down of Mr X and Mr Y, whether or not this was confined to their pockets, was unlawful.

## FINDING

The Authority is unable to determine whether Officers A and B searched Mr X and Mr Y by patting down their clothed bodies or just the outside of their pockets. Regardless, Officers A and B were not legally justified in performing this type of search because they had no legal justification to detain the men.

### *Was the search of Mr X's phone lawful?*

132. Mr X says that Officer B “*ripped*” his phone out of his hand in order to see photographs that Mr X had taken of Officer B's vehicle. Mr X says he objected to this, but Officer B continued looking through the photographs on his phone.

133. Officer B says that Mr X held his phone out to him so that he could see if there were any photographs of his vehicle. Officer B says he “grabbed” the phone to angle the screen and Mr X let go of the phone. He looked through the photographs to ensure that there were none of him, and in the course of doing so saw some photographs of wild animals.
134. Paragraph 84 explains that a Police officer exercising a search power may use reasonable measures to access a data storage device (such as a mobile phone) if any intangible material (such as an image) that is the subject of the search may be in that device
135. The Authority has not found any independent evidence to verify whether or not Officer B took the phone from Mr X forcefully, or if Mr X objected to this at the time. However it is clear that Officer B was intending to search the device for images of his vehicle, which was unconnected to the search being conducted by the officers for evidence of unlawful hunting.
136. The officers happened upon photographs of wild animals as a direct consequence of Officer B looking through the photographs on the phone. The Authority’s view is that Officer B’s search of Mr X’s phone was unlawful.

#### FINDING

Due to a lack of independent evidence, the Authority has not been able to determine whether Officer B took Mr X’s phone from him forcefully. However, Officer B’s search of the phone was unlawful because he was not looking for images to support the allegation of unlawful hunting.

#### *Did Officer B forcefully remove Mr Y from Mr X’s ute?*

137. Both Mr X and Mr Y say that Officer B pulled Mr Y from the front passenger seat of Mr X’s ute by his arm. Officer B denies this, saying both men complied with the officers’ request to get out of the vehicle.
138. Officer A also says that both men get out of the ute of their own accord; and denies that he or Officer B pulled them out of the ute.
139. The Authority has not found any independent evidence to resolve the conflict between Mr X’s and Mr Y’s allegation and Officer B’s evidence.

#### FINDING

Due to conflicting evidence, the Authority is unable to make a finding about whether Mr Y was forcibly removed by Officer B from Mr X’s ute.

#### *Did Officer A initiate the prosecution relating to the possession of radio tracking collars in response to Mr X and Mr Y’s not guilty pleas in bad faith?*

140. Mr X, Mr Y and their lawyer have complained that Officer A initiated the prosecution under the Radiocommunications Act 1989 in bad faith and for unethical reasons.

141. Officer A says that he sent the equipment to RSM so the location information contained on the devices could be analysed to see if they had been used in places and times that indicated unlawful hunting in the past. This information might be used to support the unlawful hunting charge at the Mr X's and Mr Y's defended hearing.
142. Officer A told the Authority that he did not want to pursue the charges relating to the tracking equipment because he had also used this equipment in the past, not knowing that it was illegal. He appreciated this created a perception of conflict. However, RSM as the prosecuting agency, decided to charge Mr X and Mr Y.
143. The Authority spoke to officials at RSM and they confirmed that it would be rare for them to fail to initiate a prosecution after receiving confiscated radio tracking equipment.
144. On the balance of probabilities, the Authority accepts that Officer A did send the tracking equipment to RSM following the not guilty pleas for genuine evidential reasons connected with the prosecution of Mr X and Mr Y for unlawful hunting. It was not his decision to initiate the subsequent prosecution under the Radiocommunications Act.
145. However, this complaint demonstrates the implications of Officer A's perceived conflict of interest. Officer A says that he did not feel that he was able to properly discharge his duties for fear that his prior use of pig hunting equipment would undermine his position as the prosecuting officer.

## FINDINGS

Officer A did not initiate the prosecution of Mr X and Mr Y under the Radiocommunications Act 1989.

Officer A sent the radio tracking equipment seized during the search of Mr X's ute on 2 August 2013 to Radio Spectrum Management for genuine evidential reasons connected with the prosecution of Mr X and Mr Y for unlawful hunting.

*Did the way that Officers A and B dealt with Mr X and Mr Y on 2 August 2013 represent good policing practice?*

146. As discussed in paragraphs 110-118 of this report, the Authority considers that the officers should not have undertaken to install the CCTV cameras on behalf of a forestry company. This, in itself, was not good policing practice and had an adverse effect on the prosecution of Mr X and Mr Y.
147. Nevertheless, Officer A was justified in responding to a sighting of a suspicious vehicle on 2 August 2013. It was appropriate that Officer B should support Officer A in his enquiries for safety reasons. Despite the fact that Officer B was off-duty, he was permitted by law and Police policy to take action as a Police officer if necessary and appropriate in the circumstances (see paragraphs 77-79).

148. Mr X's and Mr Y's complaints raise questions about the officers' manner of approach and the adequacy of communication during the incident on 2 August 2013. Mr X and Mr Y say they were unsure who Officer B was throughout the incident, and that the officers were abrupt in manner and dismissive of their questions about what was happening.
149. It was crucial for the officers to establish a good rapport and communicate effectively with Mr X and Mr Y in the circumstances. This was important for the officers' own safety, because they did not have any equipment with them to support enforcement action, such as oleoresin capsicum spray. It was also necessary in order to remove Mr X's and Mr Y's likely confusion about who the officers were and why they were speaking to them.
150. Neither officer was easily identifiable as a Police officer, since both were in plain clothes and they were driving an unmarked vehicle. As such, the officers could not rely on their uniform and other visual cues to signal their authority to speak to the men and require them to cooperate. This needed to be achieved by polite and respectful communication, and by showing formal Police identification.
151. The Authority accepts that Officer A did introduce himself as a Police officer and was able to show his identification badge. However, Officer B did not identify himself or state that he was off-duty. He could not produce formal identification.
152. Officer A says he introduced Officer B as a Police officer, but Mr X and Mr Y do not remember this. They remained confused about who Officer B was and why he was able to search Mr X's ute.
153. Mr X and Mr Y also felt that the officers were not prepared to listen to them or answer their questions about what was going on and why. They say that the officers, in particularly Officer B, behaved in a rude and sometimes threatening manner.
154. Officer A denies that he was impolite and disrespectful while talking to Mr X and Mr Y, and says he took particular care to clearly explain the situation and the law to them. Officer A told the Authority that they did not express any confusion about what was going on or why they were being spoken to, either directly or through their body language.
155. The Authority cannot determine whether both officers were rude, dismissive and threatening to Mr X and Mr Y before and during the search of the ute. There are no independent witnesses to provide evidence on this point. Consequently, the Authority is unable to make a finding about this aspect of Mr X's and Mr Y's complaint.
156. However, it is clear that Officer B's inability to properly identify himself and Mr X's dissatisfaction with the way he had been treated caused Mr X to decide to take photographs of Officer B's private vehicle and note down its registration number.
157. At this point the interaction between the officers and the men deteriorated into a dispute about the search of Mr X's mobile phone, and Officer B admits using language which Mr X and Mr Y reasonably interpreted as threatening. The Authority considers that Officer B's behaviour was inappropriate, and only served to antagonise and provoke distrust in Mr X and Mr Y.

158. Officer B should have reported this incident to his supervisor because he was off-duty when it occurred.

## FINDINGS

Both Officers A and B were permitted by law and policy to respond to the sighting of Mr X's ute on 2 August 2013.

Due to insufficient evidence, the Authority is unable to make a finding about whether the officers were rude, dismissive and threatening to Mr X and Mr Y before and during the search of Mr X's ute.

Officer B should have introduced himself as an off-duty Police officer, as required by Police policy. Officer A, as the senior on-duty officer, should have made sure that Officer B was clearly introduced by name, as an off-duty Police officer.

Officer B used inappropriate language towards Mr X and Mr Y, which they reasonably interpreted as threatening.

Officer B should have reported this incident to his supervisor because he was off-duty when it occurred.

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## SUBSEQUENT ACTION

159. Police investigated the complaint made by Mr X's and Mr Y's lawyer that Officer A had an actual or perceived conflict of interest in issuing trespass notices for forestry companies.
160. The investigation found no evidence to support the allegation that Officer A has hunted on forestry land. However, while noting that Officer A's supervisor and other senior staff were aware of the work he was carrying out while also being a pig hunter himself, the investigation acknowledged that a perceived conflict of interest may exist within the pig hunting community. In view of this risk, and while acknowledging the work undertaken by Officer A, the decision was taken to reassign Operation Poacher to a new officer in charge.
161. The District Commander also commented on the need for a clear boundary between the security responsibilities of private landowners and the responsibilities of Police. He determined that activities such as placement of cameras on private land and review of CCTV footage should not be undertaken without a strong and specific reason to investigate.
162. The Southern Police District have advised the Authority that staff have been instructed not to use blanket trespass notices. Guidance has been prepared for local forestry companies about reporting unlawful activity on their land.
163. The lawfulness of blanket trespass notices was raised with Police National Headquarters by the Authority in October 2014. As a result, Police are reviewing their policy.

## CONCLUSIONS

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164. The Authority has concluded in the balance of probabilities that:

### **In relation to blanket trespass notices;**

- 1) Police did not have sufficient evidence against Mr X and Mr Y to justify issuing them a blanket trespass notice.

### **In relation to the allegations of corruption and conflict of interest against Officers A and B;**

- 2) The Authority has not found any evidence that either Officer A or Officer B have acted in a corrupt manner when undertaking enforcement action under Operation Poacher.
- 3) Both Officer A and Officer B committed an offence under section 113 of the Radiocommunications Act 1989 by using illegal radio dog tracking equipment, albeit unknowingly. The limitation period for bringing a prosecution expired before the offending was reported to Radio Spectrum Management.
- 4) The fact that Officer B hunted on forestry land while also policing unlawful activities on that land put him in a strong position of conflict, and created the potential for abuse of authority.
- 5) Officer A together with his supervisor took steps to mitigate a conflict of interest arising from Officer A's interest in pig hunting. The Authority has found no evidence that Officer A hunted forestry company land whilst working on Operation Poacher.
- 6) Officers A and B should not have installed CCTV cameras on behalf of Forestry Company A on 2 August 2013. This created a strong perception that the officers were:
  - working for the forestry company; and
  - at risk of abusing their authority.

### **In relation to the interaction between Mr X, Mr Y and Officers A and B on 2 August 2013;**

- 7) Mr X and Mr Y had already stopped by the side of the road when Officers A and B came across them, and therefore were not stopped by Police.
- 8) Officers A and B had sufficient evidence to believe that an offence had been committed, and further investigation through searching Mr X's ute was justified.
- 9) The Authority is unable to determine whether Officers A and B searched Mr X and Mr Y by patting down their clothed bodies or just the outside of their pockets. Regardless, Officers A and B were not legally justified in performing this type of search because they had no legal justification to detain the men.

- 10) Due to a lack of independent evidence, the Authority has not been able to determine whether Officer B took Mr X's phone from him forcefully. However, Officer B's search of the phone was unlawful because he was not looking for images to support the allegation of unlawful hunting.
- 11) Due to conflicting evidence, the Authority is unable to make a finding about whether Mr Y was forcibly removed by Officer B from Mr X's ute.
- 12) Officer A did not initiate the prosecution of Mr X and Mr Y under the Radiocommunications Act 1989
- 13) Officer A sent the radio tracking equipment seized during the search of Mr X's ute on 2 August 2013 to Radio Spectrum Management for genuine evidential reasons connected with the prosecution of Mr X and Mr Y for unlawful hunting.
- 14) Both Officers A and B were permitted by law and policy to respond to the sighting of Mr X's ute on 2 August 2013.
- 15) Due to insufficient evidence, the Authority is unable to make a finding about whether the officers were rude, dismissive and threatening to Mr X and Mr Y before and during the search of Mr X's ute.
- 16) Officer B should have introduced himself as an off-duty Police officer, as required by Police policy. Officer A, as the senior on-duty officer, should have made sure that Officer B was clearly introduced by name, as an off-duty Police officer.
- 17) Officer B used inappropriate language towards Mr X and Mr Y, which they reasonably interpreted as threatening.
- 18) Officer B should have reported this incident to his supervisor because he was off-duty when it occurred.



## RECOMMENDATIONS

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165. Pursuant to section 27(2) of the Act, the Authority recommends that the New Zealand Police:

- 1) Review extant trespass notices issued under Operation Poacher to ensure that sufficient evidence exists to meet the legal test.
- 2) Amend current Police policy relating to blanket trespass notices to:
  - a. provide clearer direction about the limited circumstances in which blanket trespass schemes may be implemented or enforced by Police, and
  - b. stipulate that officers must obtain legal advice and approval at a senior level before implementing or enforcing blanket trespass notices.



**Judge Sir David Carruthers**

Chair  
Independent Police Conduct Authority

7 May 2015



## ABOUT THE AUTHORITY

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### Who is the Independent Police Conduct Authority?

The Independent Police Conduct Authority is an independent body set up by Parliament to provide civilian oversight of Police conduct.

It is not part of the Police – the law requires it to be fully independent. The Authority is overseen by a Board, which is chaired by Judge Sir David J. Carruthers.

Being independent means that the Authority makes its own findings based on the facts and the law. It does not answer to the Police, the Government or anyone else over those findings. In this way, its independence is similar to that of a Court.

The Authority employs highly experienced staff who have worked in a range of law enforcement and related roles in New Zealand and overseas.

## WHAT ARE THE AUTHORITY'S FUNCTIONS?

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Under the Independent Police Conduct Authority Act 1988, the Authority:

- receives complaints alleging misconduct or neglect of duty by Police, or complaints about Police practices, policies and procedures affecting the complainant in a personal capacity;
- investigates, where there are reasonable grounds in the public interest, incidents in which Police actions have caused or appear to have caused death or serious bodily harm.

On completion of an investigation, the Authority must form an opinion on whether any Police conduct, policy, practice or procedure (which was the subject of the complaint) was contrary to law, unreasonable, unjustified, unfair, or undesirable. The Authority may make recommendations to the Commissioner.



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