

Ms Angela D'Amore MP  
Chair  
Committee on the Office of the Ombudsman and Police Integrity Commission  
Parliament of New South Wales  
Macquarie St  
Sydney  
NSW 2000  
Australia

Dear Ms D'Amore,

## **Inquiry into Early Intervention Systems to Identify Officers at risk of corruption**

### **Introduction**

1. New Zealand Police (NZP) was invited to submit to the Parliamentary Committee on the Office of the Ombudsman and Police Integrity Commission's s.95 inquiry into:

- The role of early intervention systems in managing vulnerable law enforcement officers and assisting in corruption reduction;
- Current early intervention initiatives by New South Wales Police Force;
- The utility and further development of an early intervention system for NSW Police Force; and
- any other matter the Committee considers relevant to the inquiry; and

to report to both Houses of Parliament on the inquiry.

2. This submission does not make specific recommendations but provides an outline of recent changes made to the framework for managing conduct and integrity issues within New Zealand Police. These changes reflect and flow from the recommendations of the Commission of Inquiry into Police Conduct<sup>1</sup>.
3. NZP supports early intervention employment processes and is working towards the introduction of a nationwide early intervention process as part of an overall approach to performance management. However, NZP is aware that the full benefits of an early intervention process can only be achieved if implemented within a comprehensive framework which requires individuals taking full accountability for their conduct and allows for rapid and proactive performance management and disciplinary responses.

---

<sup>1</sup> Report of the Commission of Inquiry into Police Conduct , Dame Margaret Bazly, ISBN 978-0-477-10033-5

## **Background**

4. A Commission of Inquiry into New Zealand Police Conduct (the Commission) was established in February 2004 and reported on in March 2007.
5. The Commission was established to carry out a full and independent investigation into the way in which NZ Police had dealt with allegations of sexual assault against members of the police and associates of police.
6. A number of recommendations coming from this inquiry have led to significant changes in the legislative and administrative management of Police employee performance and created an environment in which a performance related early intervention process may now be applied.

### **Key changes:**

#### New Regulations and a comprehensive Code of Conduct.

7. Before 2007 the framework for managing conduct and integrity issues within Police was based on the Police Act 1958 and the Police Regulations 1992.
8. The 1958 Act provided for different disciplinary systems for sworn and non-sworn members of Police. This statutory framework led to a reactive and cumbersome response to conduct and integrity concerns. For instance for sworn employees, if disciplinary action were required for a serious misdemeanor the person had to be dealt with through a quasi-criminal inquiry process which was often slow, led to long stand-down periods and impacted negatively on public perception of police integrity and performance. The process did not lend itself to more pro-active performance management processes or early interventions.
9. The 1992 regulations listed activities that if breached would result in disciplinary action.
10. The Commission called for those parts of the Police Regulations 1992 that provided for the disciplinary tribunal system to be revoked and replaced by a best practice disciplinary system based on a code of conduct. The Commission also recommended that the police approach to performance management and discipline be reviewed to ensure systems and processes are adequate, standardized, and managed to a standard that is consistent with best practice in the public sector.
11. In February 2008 new regulations took effect. These reversed the approach contained in the old regulations in that they introduced a Code of Conduct which describes the standards of behavior expected

of all Police employees and reaffirms Police Core Values of Integrity, Professionalism, Respect for others and Commitment to Maori and the Treaty.

12. In January 2008 all Police employees were provided with a copy of the new Code of Conduct and a guide to applying the new performance management and disciplinary systems given to each supervisor. (Attachments A and B).
13. The regulations also introduced a new progressive disciplinary process which has a focus on performance improvement and allows for early action.
14. The progressive disciplinary process places an obligation upon supervisors to address performance issues as soon as possible after they are identified. Supervisors are required to have an initial informal meeting to discuss general work performance and specific areas in need of improvement. The process seeks to focus on positive actions designed to achieve improvements as opposed to punishment. The aim is to achieve open two-way discussion and an agreed plan for improvement.
15. The progressive disciplinary process, however, also allows for dismissal should there continue to be a series of low level performance issues. This could not previously occur without following the cumbersome, semi-judicial tribunal process.

#### Integration of Professional Standards and Human Resources.

16. The Commission of Inquiry noted the structural separation of Professional standards and HR. HR with responsibility for applying national performance management processes was separate from the enforcement and investigation processes of the Professional Standards group. This separation seemed to reinforce a separation of proactive and reactive performance management rather than early proactive intervention being the first rung of a performance management continuum.
17. The Commission recommended the integration of the two Groups and this was achieved in December 2007.

## Early Intervention Systems

### *National Early Intervention Process*

18. The Commission made three recommendations specific to early warning systems and performance management. They were that:
  - NZP should implement a nationally mandated early warning system in order to identify staff demonstrating behaviour that does not meet acceptable standards and ensure such behaviour does not continue or escalate.
  - The early warning system should ensure that all relevant information, sufficient to give a complete picture of an officer's full record of service, is captured in a single database, and is accessible to police managers and supervisors when making appointments and monitoring performance, as well as to complaint investigators when appropriate.
  - NZP should review its approach to performance management, including the training provided to supervisors and managers, the performance appraisal process and documentation, and the methods in place to ensure that the follow-up identified in the performance improvement plans actually occur.
19. The NZP Performance Management Policy (as updated on 12 May 2008) does not specifically refer to early intervention but provides a framework within which early intervention can apply. See Attachment C
20. This policy is underpinned by 4 human resource principles: They are:
  - Individual responsibility - individuals are responsible for their own behaviour and for maintaining high standards of integrity and professionalism and concern for public interest;
  - Fairness - the process must be consistent with EEO/Diversity and Treaty of Waitangi principles
  - Decisions affecting staff members must be timely, supportable and informed by specific examples of action or behaviour;
  - Relevance - performance objectives and training, education and professional development opportunities should be achievable and applicable to the individual and the work context.

### *National Early Intervention Trial*

21. In response to the Commission recommendations, an Early Intervention System was trialled in 3 Police districts (Auckland, Wellington, Southern) and in the National Communication Centre.

22. The method used was that data relating to 5 specific criteria was looked at and for each month the names of police employees were generated on the basis of those that exceeded the pre-set threshold. The criteria and thresholds are listed in the table below.

Criteria	Threshold
Tactical Options (Use of Force) Reports in the prior 2 years	More than 9 Or
Inappropriate emails/excessive use of internet	More than 4 Or
IPCA complaint in the prior 2 years	More than 4 Or
IPCA complaints and Tactical Options Reports recorded over the previous 2 years	More than 2

23. Several issues arose from this trial. These related to:
- the quality of the information systems. For instance the way data was recorded/presented could lead to an overstatement of some of the incidents (a particular problem with email attachments). The need to manually work through the data risked error. Incompatibility of data sets resulted in a single event being identified more than once.
  - emails presented particular problems because of uncertainty about whether an email had been opened etc
  - negative perceptions about the process from employees unconvinced of the positive and proactive aims of the trial and concerned that the information would be used for other purposes
24. NZP is progressing the implementation of an Early Intervention Process. To achieve this, a position has been established within the Police Professional Standards Group. A copy of that job description is attached. (Attachment D). The appointment process is currently being progressed.

#### *District Early Intervention Processes*

25. NZP is a de-centralised organisation divided into 12 Districts, a National Headquarters and service centres. Each District is able to develop its own Professional Standards and HR policies within the overall statutory framework and consistent with national policies. Some Districts have introduced an early intervention process prior to the establishment of a national process. Most advanced is that operating within the Wellington District.

26. Wellington District developed an early intervention policy because:
- Individual observations by the District Manager Professional Standards had indicated that employees who had a high incidence of complaints, had a record of usage of force, were more frequently assaulted or were resisted or obstructed, incurred 'on duty' speed camera infringements, attracted various 'Expression of Dissatisfaction' that had not become 'complaints', failed to keep all their mandatory training qualifications up to scratch, demonstrated a low regard for departmental property and were identified as making questionable use of e-mail and internet.
  - Subsequent analysis of 5 years available data showed
    - 32.7 per cent of police were responsible for attracting 78 per cent of complaints
    - 34.8 per cent of members were responsible for attracting 100 per cent of complaints
  - Analysis of complaints made against police employees in the Wellington District in the 2005-2006 year showed that almost half of the complaints made around lower order issues suggesting proactive training/counselling might reduce the frequency of complaints .
    - 8.6 per cent                      Assault
    - 18.1 per cent                    Attitude/Language
    - 10.9 per cent                   Inadequate Service
    - 8.2 per cent                    Use of Force - Other
27. Drawing upon "Early Intervention Systems for Law Enforcement Agencies - A Planning and Management Guide"<sup>2</sup> and after widespread consultation with: Police in the Wellington District; the Independent Police Conduct Authority; and the NZ Police Association, a draft Early Intervention Policy was prepared.
28. This has been further refined and made available to other Districts. A copy of the Wellington District Early Intervention (Professional Standards) Policy is attached. Attachment E
29. Commencing in July 2004, the Wellington District Manager Professional Standards has been manually monitoring a number of separate data sets and applied a trigger point for initiating early intervention. Where the threshold was met (or exceeded), intervention was initiated.
30. This process has been maintained for over four full years. During the time the data sets monitored have gradually been enlarged. Criteria used as an indicator of potential behaviour problems currently include:

---

<sup>2</sup> <http://www.cops.usdoj.gov/ric/ResourceDetail.aspx?RID=85>

1. Numbers of complaints or notifiable incidents in which an individual employee has been involved;
  2. Numbers of Oleoresin Capsicum Spray usage incidents;
  3. Numbers of expressions of dissatisfaction in connection with Road Policing Offence Notices, forwarded to District by PIB, or other source;
  4. Numbers of Speed Camera Notices incurred by employee (on-duty) where the speed is more than 30 kmph over the posted limit, and 11-29 kmph over the limit (but with no warning );
  5. Number of dog bites by the employee's dog (if a dog handler);
  6. Numbers of presentations of a firearm;
  7. Identifiable mandatory training shortfalls (eg Staff Safety Tactical Training (SSTT), Custodial Management Suicide Awareness (CMSA), First Aid, Physical Competency Test (PCT));
  8. Numbers of Complaints and/or Disciplinary, and Expression of Dissatisfaction issues not advised to Professional Standards Wellington\_District but known to supervisors, Area Commanders, relevant Managers);
  9. Number of 'Use of force' situations, and an assessment as to whether these are excessive, in nature or quantity;
  10. Number of assaults on the employee, or employees from a particular workgroup and an assessment as to whether these are excessive, in quantity;
  11. Number of instances of resisting or obstruction in which that employee was the employee resisted or obstructed and an assessment as to whether these are excessive, in quantity;
  12. Number of departmental vehicle crashes in which the employee has been the driver; and
  13. Other performance issues in relation to the employee
31. While the criteria and other aspects of the policy have changed since first prepared in 2004, the 'trigger/thresholds ' have not. The threshold remains as three complaints or notifiable incidents in the previous two years from the date of the most recent complaint advised to the Manager Professional Standards Wellington District. In other words, for every complaint or notifiable incident that has been registered against Wellington District, since February 2004, the employees involved have been checked against complaint records, for any previous complaints or notifiable incidents involving them in the previous two year period. Where the threshold was met (or exceeded) intervention was initiated.
32. Wellington District has accrued 4.4 years of data around its Early Intervention Process.
33. Key points coming from the Wellington experience are:

- The early intervention process may be playing some part in modifying complaint-attracting behaviour. Evidence for this is that the number of employees identified through the early intervention process has declined from an initial 24 in the first full year (2004-2005). The number of interventions have been as follows: 36 in 2005-06; 21 in 2006-07; 18 in 2007-08. The total number of employees in the Wellington District as at 30 June 2008 was 937 (769 Sworn, 166 Non-sworn).
- A number of issues have been identified from a study of the Feedback Reports generated after supervisors have had first level meetings with the employees. These include:
  - supervisors appeared to prejudge situations before gathering sufficient information and the meeting.
  - inadequate time was spent on establishing agreed performance indicators
  - supervisors and employees appeared to give excess weight to the fact that complaints were "not upheld" rather than comparing results with others working in equivalent positions who perform at a high level without generating complaints
  - meetings held between the supervisor who actioned the intervention and the employee concerned have been generally well received
  - knowledge and understanding of the process seemed to be increasing.

## **Conclusion**

34. New Zealand Police consider early intervention processes can assist with performance management.
35. The success of the process depends on robust and reliable data and an overall statutory and administrative framework that supports responsive and proactive management.
36. New Zealand Police would be pleased to respond to any queries the Committee may have with respect to the New Zealand experience.

Yours sincerely,

Lyn Provost  
Deputy Commissioner  
New Zealand Police  
PO Box 3017  
WELLINGTON  
lyn.provost@police.govt.nz



List of Attachments:

- A NZP Code of Conduct
- B NZP Code of Conduct *Supervisors' Guide*
- C Position Description: O/C Risk Management Professional Standards
- D Performance Management Policy (updated 12May2008)
- E Wellington District Early Intervention (Professional Standards) Policy