



MEMORANDUM OF UNDERSTANDING

Criminal Cases Review Commission and New Zealand Police

22 October 2020

MEMORANDUM OF UNDERSTANDING BETWEEN THE CRIMINAL CASES REVIEW COMMISSION AND NEW ZEALAND POLICE

1. BACKGROUND AND PURPOSE

- 1.1. On 1 July 2020, the Government established Te Kāhui Tātari Ture, the Criminal Cases Review Commission (CCRC). The CCRC's functions, duties and powers are described in the Criminal Cases Review Commission Act 2019.
- 1.2. New Zealand Police (Police) and the CCRC - collectively referred to as the Parties - wish to work together in a constructive manner to support the CCRC's ability to perform its statutory functions, and more broadly to ensure the interests of justice are served. This Memorandum of Understanding (MOU) records the Parties' agreement about how they intend to give effect to this working relationship. In particular, the MOU documents the understanding reached between the Parties concerning information requests the CCRC submits to Police, to support the CCRC's consideration of applications it has received.
- 1.3. While it sets out the parameters of the intended relationship between the Parties, the MOU does not create any legally enforceable obligations. The Parties will, however, seek to give effect to this MOU by interpreting it consistently with both the Policing Act 2008 and the Criminal Cases Review Commission Act 2019.
- 1.4. Unless the Parties agree to end it earlier, this MOU will continue in perpetuity, as required.

2. PRINCIPLES OF WORKING TOGETHER

- 2.1. The Parties recognise the need to reflect the principles of transparency and accountability in the work the CCRC undertakes. The Parties will operate in accordance with the applicable public service standards and policies to ensure this operating principle is given effect.
- 2.2. The CCRC and Police also recognise the need to be responsive and flexible in their dealings. The CCRC understands the volume of cases Police manages, and that the nature of many of the cases will be complex and will possibly involve large file

holdings. Given this, the CCRC undertakes to triage and streamline requests in the interests of efficiency and effectiveness.

2.3. Police further recognises the CCRC is an independent Crown entity working to timeframes driven by upholding the rights of applicants. Police acknowledges that in order to deliver on its obligations, the CCRC may need to submit time-sensitive and bespoke requests that fall outside Police's normal business settings. Nonetheless, in line with its legislative and operational requirements, Police will take all reasonable steps to facilitate such requests.

2.4. More generally, the Parties are committed to working together with the common goal of supporting applications and information sharing related to the work of the CCRC. In doing so, the Parties agree to the following principles:

- a) **Good Faith:** to act in good faith to carry out its obligations as set out in this MOU;
- b) **Autonomy:** to accept and recognise each Party is an autonomous entity and is entitled to make decisions on any recommendations made to it in accordance with this MOU;
- c) **Co-operation:** to work cooperatively to support the CCRC to achieve its objectives;
- d) **Communication:** to communicate openly and honestly with each other to ensure effective decision making by the Parties, and to minimise the potential for conflicts or disputes (and, if any arise, to deal with them promptly and resolve them fairly); and
- e) **Timeliness:** to contribute, make decisions and communicate with each other in a timely manner to ensure the goals are progressed efficiently and effectively.

2.5. The Parties also agree to operate in accordance with the following specific understandings around the needs for privacy and confidentiality:

- a) The CCRC recognises the importance of ensuring that personal information is treated appropriately and in accordance with the principles of sensitivity, confidentiality, and informed consent.
- b) Police recognises that in order for the CCRC to fulfil its functions and duties, people who engage with the CCRC must feel free to make full and frank disclosures.

- c) The CCRC will maintain confidentiality of information received in confidence from people who engage with the CCRC unless it falls within the following exceptions:
 - i) the participant consents to it being released; or
 - ii) the CCRC reasonably believes disclosure of the information is necessary to prevent serious risk to the health and safety of any person, or another purpose prescribed by the Criminal Cases Review Commission Act 2019; or
 - iii) disclosure is required by law, or by order of a Court.

3. SPECIFIC OBLIGATIONS OF PARTIES

3.1 The Parties agree to fulfil the following obligations in relation to the process of information requests from the CCRC to Police:

- a) **Support:** to provide all reasonable support, information, materials and assistance to enable it to meet its obligations under the MOU;
- b) **Notices:** to provide a key contact and an email address(es) for all communications to the Parties relating to the work of the CCRC.

3.2 More specifically, the Parties agree to operate in accordance with the procedure set out in **Schedule 1** of this MOU.

3.3 In some circumstances, current or former Police employees will be required to undergo an interview with the CCRC's Case Investigators. Police will be notified of any interviews required by the CCRC involving current Police staff, and where possible will also be informed of situations where former Police staff are interviewed in relation to applications received by the CCRC. In all cases, the current or former Police employees will be invited to bring a support person or advocate to attend the interview with the CCRC's Case Investigators.

4. REVIEW OF THE MEMORANDUM OF UNDERSTANDING

4.1 This MOU will be reviewed every 12 months and may be amended at any time by written agreement of the Parties.

5. DISPUTE RESOLUTION AND REPRESENTATIVES

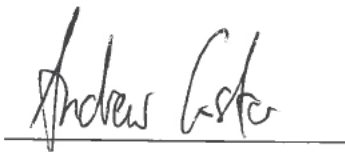
5.1 The Parties will promptly notify each other if any dispute or difference arises under this MOU and will promptly meet to discuss that dispute or difference.

5.2 The Chief Executive (CE) of the CCRC and Police's Director: Assurance are expected to discuss and resolve any non-operational issues arising from this MOU. Operational issues will be raised through Police's usual escalation process.

5.3 If the CE and Director are unable to resolve any issue, it will be escalated to the Chair of the CCRC and the Commissioner of Police for resolution.

SIGNATORIES TO THE MEMORANDUM OF UNDERSTANDING

Signed on this day 22 October 2020



Andrew Coster
Commissioner of Police



Colin Carruthers QC
Chief Commissioner

Schedule 1 to MOU

Standard process for triaging and streamlining CCRC information requests to Police

Applications

- a. Subsequent to monthly meetings of the CCRC's Commissioners, the CCRC will aggregate and make requests for all relevant Police-held information relating to the accepted applications.
- b. Requests will be submitted by the CCRC to a central Police email address, using a standardised Request for Information (RFI) form [reproduced below].
- c. Police will formally acknowledge all such RFI requests from the CCRC, and will aim to provide a substantive response, in the majority of cases, within 20 working days - and earlier, if possible.

Where it is not possible to respond within 20 working days, Police will notify the CCRC by email, providing an estimated time for delivery and the reasons for the anticipated delay.

Where the CCRC identifies applications that are likely to be accepted, and are complex in nature (for example, involving multiple allegations or large file holdings), the CCRC will give Police prior notification to allow maximum lead-in time to prepare.

Request for Information (RFI) Form	
To:	Police National Headquarters New Zealand Police
Attention:	Police CCRC liaison
Subject:	RFI about an individual of interest, pursuant to sections 14 and 32 of the Criminal Cases Review Commission Act 2019 and section 22 (Information Privacy Principle 11) of the Privacy Act 2020
Email:	CCRC@police.govt.nz (via SEEMAIL)
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Individual of interest:	
DOB:	
Last known address:	
Other biographical information that may be of assistance:	
Information sought:	<i>(Where possible the information should be defined, relevant and necessary for the proceedings)</i>
Reason for request:	<i>(Include why the information is not sourced directly from the individual; whether or not the individual authorises the release of information from Police; and, if not being sought on the authority of the individual, how the information is necessary for the conduct of proceedings)</i>
CCRC point of contact requesting the information: <i>(Please include contact details)</i>	