Grey literature review for the Understanding Policing Delivery programme

November, 2021

Te Atawhai o Te Ao

Note: This literature review contains discussions on violence, sexual assault, transphobia, racism and colonisation. Please take care when reading.

Te Atawhai o Te Ao
Independent Māori Institute for Environment & Health

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1. Executive summary

This literature review examines grey literature material for a New Zealand Police commissioned programme called, *Understanding Policing Delivery*. This project is overseen by an independent panel, who are outside of the New Zealand Police and aims to identify if, where and to what extent, bias may exist within New Zealand Police policies, processes, and practices. Police Commissioner, Andrew Coster has outlined three areas of potential concern surrounding policing delivery, which include:

1. Who the Police stop and speak to and how Police engage with them;
2. 'Use-of-force' decision-making; and
3. 'Charging' decision-making.

This literature review will examine these three potential areas of concern through grey literature and amongst the broader structures of unconscious bias, racism, unfairness and inequity within the justice sector of Aotearoa. Further, this literature review contextualises how these three areas of concern are enacted and practiced at varying levels of racism. These engagement practices are examined for bias towards particular groups or people based on ethnicity, race, sexual orientation, gender identity, ability, age, religion or ideology.

2. Introduction

In March 2021, the New Zealand Police announced a new long term research programme through a press release entitled, 'New Research To Focus On Fairness And Equity In Policing Our Communities' under the umbrella of the *Understanding Policing Delivery* project (New Zealand Police, 2021a). Police Commissioner, Andrew Coster stated the importance of this debate being grounded in evidence, stating:

> **Allegations of bias are felt across the whole organisation. Objective research will either reassure the public that we are operating with fairness across all communities, or it will highlight where we need to improve our practices and processes. Either way, the findings will inform Police work programmes and help it to deliver on our commitment to Māori, and the Treaty, by ensuring our actions are fair, reasonable and proportionate for all New Zealanders (New Zealand Police, 2021a, p. 1).**

An independent panel provides academic, cultural and community expertise to the research programme drawing from a range of diverse lived experiences and qualifications while applying a tikanga worldview (New Zealand Police, 2021b). The independent panel is chaired by Tā Kim Workman KNZM QSO and comprises of thirteen members selected by the Chair and the New Zealand Police that includes Māori, Pasifika, Rainbow and youth communities as well as a former New Zealand Police District Commander. Both 'Te Puna Haumaru' the NZ Institute for Security and Crime Science at the University of Waikato and Te Atawhai o Te Ao are providing the research for different aspects of the *Understanding Policing Delivery* project ("Understanding Policing Delivery", 2021).

From the outset of the *Understanding Policing Delivery* project, the New Zealand Police and the independent panel have outlined that understanding the use of specific terms that infer a range of structures, which impact on policing delivery, are important. Therefore, the introduction of the literature review will examine the usages and definition of particular terms that are pertinent to understanding policing delivery and the literature review overall.

2.1 Defining 'bias'

The literature uses 'bias' amongst a cohort of negative stressors when researching its effects within their respective communities or as a structure and practice within the New Zealand Police (Blank et al, 2019; Chetty, 2013; Croxford, 2016; Daniels-Shpall, 2019; Government Inquiry Report, 2018; Grennell et al., 2019; Nakhid et al., 2016; Te Uepū Hāpai i Te Ora Safe and Effective Justice Advisory Group, 2019). Houkamau & Blank (2018, p. 1) have defined bias as:

> **... generally negative feelings and evaluations of individuals because of their group membership (prejudice), overgeneralised beliefs about the characteristics of group members (stereotypes), and inequitable treatment (discrimination).**

Houkamau & Blank (2018) also state that bias exists in two different frameworks of being - 'conscious and intentional' known as 'explicit bias' and 'unconscious and automatically activated', also known as 'implicit bias'. Blank et al. (2019, p. 4) define the cognitive functions behind bias that coincide with stereotyping, particularly around implicit bias, stating:

Stereotypes are widely held but fixed and oversimplified images or ideas about a particular type of person or thing. Stereotypes are cognitive associations learned after repeated exposure to ideas, images and concepts about particular groups. Research shows that stereotypes are internalized passively, even in the absence of deliberate intention.

The literature argues that bias is prominent within all three areas of concern for policing delivery by the New Zealand Police in determining differential treatment of racial and ethnic communities[1] (Blank et al., 2019; Cook, 2021; Houkamau & Blank, 2018; JustSpeak, 2020; Morrison, 2009).

Houkamau & Blank (2018) use international literature as a comparative focus on implicit bias within Aotearoa from an interpersonal lens and with a belief that most police officers operate from this basis. However, Morrison (2009) also uses international and national literature as a frame for analysing the New Zealand Police surrounding bias research, finding that the definitions for bias are largely addressed but that appropriate responses to alleviating bias is lacking in research. Morrison (2009) outlines common issues both internationally and nationally surrounding responses to alleviating bias. Morrison (2009) also argues that issues surrounding systemic, structural, historical and colonial aspects affecting the way bias impacts on policing delivery are not acknowledged or taught.

Morrison (2009) states that there is a link between colonisation and structural disadvantage which can disproportionately impact both racial and ethnic communities to more often experience disparities within the criminal justice system. Morrison (2009) notes that there is a lack of accountability from the government and criminal justice system in their failure to collect data on racial and ethnic minorities which may reveal this 'uneveness' as unfairness. This situation is exacerbated by a failure to provide meaningful relationships with Indigenous interest groups with regard to their own aspirations of self-determination and empowerment. Morrison (2009) claims that in order to alleviate issues of bias, inclusion and centralising strategies by and for racial and ethnic minorities within programme design, implementation and governance surrounding policing needs to be integrated. Having racial or ethnic minorities within positions of power and key decision-making to alleviate bias with

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[1] This literature review makes distinctions between the terms 'racial' and 'ethnic', used for synonymously denoting both 'race' and 'ethnicity', which are often used interchangeably but mean different social components of race discourse theory. 'Race' is a group that share physically defined characteristics that are socially and externally assigned, such as having a certain skin colour, facial features or hair texture. 'Ethnicity' does not infer physical characteristics but instead refers to a group with shared ancestry, culture or nationality (Smith et al., 2021a).

regard to racism is reiterated throughout the literature within Aotearoa (Cram et al., 1999; Human Rights Commission, 2012; Jackson, 1987; JustSpeak, 2020; Te Uepū Hāpai i Te Ora Safe and Effective Justice Advisory Group, 2019).

Cook (2021, p. 10) discusses the harmful ways bias is sometimes applied within policing delivery stating:

> **Less obvious is the bias that arises when the tests and policies applied to Māori have been based on analysis and knowledge dominated by the characteristics generally measured and modelled for Pākehā. In the application of policies developed in this way, inevitably ethnic bias occurs, leading to that part of the population (i.e., Māori) being systemically identified as outliers, rather than as a community whose distinct characteristics need to be measured and reliably understood and accounted for.**

Cook (2021) discusses how policing delivery policies are modelled after Pākehā and that this metric cannot be applied to Māori, advocating for a re-design of bias in policing delivery. Jackson (1987) and Cram et al. (1999, p. 7) agree stating "the mainstream criminal justice system that exists within this country is predicated on the punishment of the offender" and that notions of both 'victim' and 'crime' must be viewed within a colonial and historical context. Blank et al. (2019, p. 4) propose that a bias cycle, triggered by stereotyping, influences the relationship between the New Zealand Police and Māori, cultivating tense and negative patterns of interactions:

> **Officers' implicit and explicit beliefs about, feelings towards, and expectations of Māori influence their engagement with Māori. Negative and implicit biases about Māori influence police judgements in a range of ways, such as misattribution of crime, heightened suspicion, or just general lack of tolerance and patience with Māori. Māori are therefore more likely to be arrested and receive harsher sentences than other groups. Constant exposure to the stereotypes mean that over time police officers are effectively conditioned into implicit bias against Māori.**

The literature reiterates these key findings when addressing bias within the criminal justice system of Aotearoa but critique bias in relation to the larger structural and systemic role of racism (Cook, 2021; Chetty, 2013; Croxford, 2016; Daniels-Shpall, 2019; Grennell et al., 2019; Nakhid et al., 2016; Waitangi Tribunal, 2020a).

2.2 Defining the levels of racism

The literature either explores just bias within the New Zealand Police or contextualises bias in conjunction with the wider role of racism (Blank et al., 2019; Chetty, 2013; Cram et al., 1999; Croxford, 2016; Morrison, 2009; Nakhid et al., 2016; Waitangi Tribunal, 2020a). Workman (cited in Waitangi Tribunal, 2020a, p. 10) argues that bias is used as way to lessen the harshness of racism, stating:

> **Labelling racism as 'unconscious bias' enables organisations to avoid responsibility, shifting responsibility from the state to the 'blameless' individual.**

Bias can be underpinned by an attempt to not acknowledge racism and often aligns with racist theories such as deficit theory, otherwise known as 'victim-blame analysis', which creates and reinforces negative prejudices, stereotypes and associations about communities or people (Smith et al., 2021a). The Human Rights Commission (2012, p. 15) explains that:

> **Such thinking claims that deficits manifest in limited intellectual abilities, linguistic shortcomings and lack of motivation or hard work.**

Chetty (2013, p. 25) provides an example through re-offending, where this view places an illusionary blame on racial or ethnic communities and particularly, Māori, arguing:

> **While established deficit approaches have sought to understand minority and indigenous overrepresentation, such research has focused on why offenders offend whereas emerging research seeks to use ethnicity as a catalyst for research into protective factors that draws upon ideas of social capital, and look at how this supports offenders to not reoffend.**

Te Uepū Hāpai i Te Ora Safe and Effective Justice Advisory Group (2019, pp. 11-12) reaffirm these statements by arguing that "no-one is born to offend" and that the criminal justice system is racist and in doing so, is failing racial and ethnic communities:

> **Many people hold negative stereotypes of Māori, Pacific and other ethnic and cultural groups, and this is reflected in individual actions that discriminate on**

the basis of race… High rates of arrest and imprisonment of Māori reflect systematic discrimination both within justice and the wider community. We also heard from other ethnic groups of a system that harboured deep bias.

Deficit theory or victim blame analysis is a tool for racism that has been used within all levels of racism to maintain the power structure of where Pākehā are the more privileged group over all racial or ethnic communities (Cram et al., 1999; Jackson, 1987; Smith et al., 2021a). Smith et al. (2021a) show that there are four levels of racism, which include:

1. **Societal racism:** The maintenance of negative stereotypes, attitudes, values and beliefs about a racial group placing barriers to education surrounding colonisation and its historical impacts;
2. **Institutional or systemic racism:** Legislation, policies, structures and practices that maintain power imbalances and inequalities for disadvantaged racial groups;
3. **Interpersonal or personally mediated racism:** Interactions through discrimination that perpetuate unfair and avoidable inequalities for disadvantaged racial groups based on prejudice, stereotyping and bias; and
4. **Internalised racism:** Belief and self-acceptance of negative stereotypes, biases, attitudes and values of a disadvantaged racial group regarding the inferiority of one's own racial group.

The literature overwhelmingly discusses the overrepresentation of Māori within the criminal justice system as a result of all four levels of racism. Racism is discussed within the context of Pasifika communities as an addition to Māori overrepresentation within the criminal justice system, are homogenised with Māori or are explored in relation to gangs rather than race or ethnicity (Cook, 2021; Cram et al., 1999; Chetty 2013; Croxford, 2016; Daniels-Shpall, 2019; Human Rights Commission, 2012; Hurihanganui, 2021; JustSpeak, 2021; Nakhid, 2009; Te Uepū Hāpai i Te Ora Safe and Effective Justice Advisory Group, 2019).

Nakhid et al. (2016) discusses the effects of racism on African Youth in Aotearoa and although not explicitly stated, this significant study potentially exposes further layers and tools of racism such as dehumanisation and the role of anti-Blackness within policing delivery[2]. Ho et al. (2006) discuss complex and varying views of the New Zealand Police from

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[2] 'Dehumanisation' refers to the process of subjugation, where Black, Indigenous and/or people of colour become 'Othered' by being reinforced negative narratives about their racial and ethnic communities. This process includes narratives that question intellect, innovation and competency in all areas including managing resources, in conjunction with the centralising of 'whiteness' and white people as the pinnacle of the race hierarchy (Smith et al., 2021a). 'Anti-blackness' refers to a particular type of racism that (continued)

Middle Eastern, South Asian, South East Asian and East Asian communities. Ho et al. (2006) show that these communities avoid the police discussing that racial, ethnic and cultural factors might create potential vulnerability or negative misunderstandings about their respective communities. Te Uepū Hāpai i Te Ora Safe and Effective Justice Advisory Group (2019) examine the ways racism protects whiteness and Pākehā through tactics known as colour-blindness, where race or racism is never acknowledged through the illusion that everyone is equal. Further, Te Uepū Hāpai i Te Ora Safe and Effective Justice Advisory Group (2019) point out a lack of cultural competency surrounding different racial or ethnic communities within the New Zealand Police and criminal justice system. Nakhid et al. (2016) discusses that police officers that are Black, Indigenous and/or a people of colour were usually nicer and non-confrontational when approaching African Youth due to their own lived experiences of facing racism. The literature highlights how bias can create harmful pathways of expressing and practicing different levels of racism and through drawing on ideas of colour-blindness, that bias is viewed as a more palatable term as there remains an underlying reluctance to address racism directly (Blank et al., 2019; Cook, 2021; Houkamau & Blank, 2018; Hurihanganui, 2021; Te Uepū Hāpai i Te Ora Safe and Effective Justice Advisory Group, 2019).

2.3 Intersectionalities

Cook (2021, p. 10) discusses how Māori women can be targeted unfairly through Police surveillance as a result of negative applications of bias, stating:

> **The age distribution of Māori women and past patterns of fertility lead to disproportionate surveillance of Māori when teenage mothers are regarded as risks to be managed. It does not take any form of sophisticated modelling to observe that the lower overall socio-economic position of Māori compared to Europeans is correlated with a higher overall likelihood of being placed in state custody.**

Similarly, the Family Violence Death Review Committee (2020) reiterate that due to historical trauma stemming from colonisation, Māori women have had their rights taken away through legislation that imposed gender norms, alienation from decision-making in

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…targets and affects Black folks globally with overlapping facets as a result of capitalism, slavery and colonisation. Anti-blackness stems from the exploitation of Black bodies as an introduced concept through colonisation that became normalised through free slave labour and violence towards economic expansion. Anti-blackness is also concerned with how Black people are defined outside of being human, their dehumanisation and the perceived inferiority of Black folks globally (Smith et al., 2021b).

their communities and through being unable to hold land titles[3]. This historical trauma resulted in Māori women becoming invisible with a perception that they were subordinate to Pākehā men, Māori men and Pākehā women, which impacts on the high prevalence of intimate partner violence experienced by Māori women today. The Family Violence Death Review Committee (2020) state that Māori women distrust the New Zealand Police or justice systems due to fear and negative past experiences of inadequate help. These factors are a result of both racism and sexism overlapping, which are examples of 'intersectionality'.

Intersectionality is a term first coined by Crenshaw (1989) that acknowledges that Black, Indigenous and/or people of colour face multiple layers of oppression. This includes combinations of race, gender, class, sexual orientation and ability. This has been exemplified through the experiences of Māori women who face racism, sexism and in some cases, classism. Specifically, Māori women who come from lower socio-economic backgrounds and who are perceived as being lower social status. The literature highlights that for Māori women, intersectionality is pertinent in the contexts of intimate partner violence, and interactions with the New Zealand Police and the criminal justice system (Cook, 2021; Smith et al., 2021a; STIR & NZPHA, 2021; Family Violence Death Committee, 2020).

The literature on the intersectionality of racial and ethnic communities, shows that people have diverse experiences and realities and that the criminal justice system is unable to currently accommodate those needs (Cook, 2021; Ho et al., 2006; Nakhid et al., 2016; Te Uepū Hāpai i Te Ora Safe and Effective Justice Advisory Group, 2019). Te Uepū Hāpai i Te Ora Safe and Effective Justice Advisory Group (2019, p. 13) describe examples of the importance of recognising intersectionalities:

> **Many people from Māori, Pacific, refugee and migrant, disabled and LGBTQI+ communities told us that the justice system did not meet their needs. Migrant and refugee communities of colour have expressed their experience of cultural blindness and lack of cultural competency within the system... Many emphasised the need for more accessibility and greater language and cultural competence throughout the system. The expertise of those with lived experience should be drawn on – for example, the system should consult and listen to the disabled community to ensure their needs are met proactively.**

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[3] The Family Violence Death Review Committee (2020, p. 27) refer to the Native Schools Act 1867 and the Māori Land Act 1867.

More knowledge of the needs of the Rainbow community also should be built into the system processes, facilities and culture.

We would also note that there is minimal literature examining the intersectionalities of diverse realities from Takatāpui, LGBTQIA+ or disabled communities regarding policing delivery. The Human Rights Commission (2007, p. 43) released a report on the discrimination experienced by transgender people from a range of sectors including policing. The report conveys stories of violence, negligence and a lack of understanding surrounding transgender people, stating:

> **One beating [by my partner] was so bad that he fractured four vertebrae in my back. Two years later he beat me and tried to strangle me. I decided to contact the police for help. They took me to the hospital and went back to arrest my husband. He informed them that he had just found out I was a transsexual and beat me out of anger of being lied to. He had always known I was a transsexual. The police told me that I deserved what had happened to me and didn't do anything to him.**

Through an inadequate understanding of the intersectionalities that may impact some people, there has been historic mistreatment and distrust for those who do not fit the traditional archetype of settler-colonialism, which has been mostly, hetero-patriarchal and Pākehā (Cook, 2021; Human Rights Commission, 2007; Nakhid et al., 2016; Te Uepū Hāpai i Te Ora Safe and Effective Justice Advisory Group, 2019).

We would reiterate that there is a need for more understanding of intersectionalities within the context of policing delivery and the criminal justice system that take account of the experiences of Māori who are Takatāpui, immigrants who are disabled or Pasifika peoples from lower socio economic backgrounds as examples. There is a need to account for these diverse and overlapping realities while simultaneously accelerating cultural competency education within the police for understanding intersectionality. While intersectionality is not the underpinning approach, the Human Rights Commission (2007) and the New Zealand Police (2019) have outlined some beginning strategies that aim to diversify policing delivery through expanding racial and ethnic recruitment, developing effective research and evaluation frameworks as well as engaging more meaningfully with diverse communities.

3. Methods

The methodology of this literature review uses a Kaupapa Māori framework. Kaupapa Māori methodologies are inherent in all projects undertaken at Te Atawhai o Te Ao, which is an independent Māori institute for environment and health based in Whanganui, Aotearoa. However, we note that this literature review was conceived earlier during March 2021 as a part of the *Understanding Policing Delivery* project prior to this study being taken up by Te Atawhai o Te Ao. Both the New Zealand Police and the independent panel originally structured this literature review based on descriptive and thematic analysis, a scoping of the 'grey' literature, and the targeting of the three areas of concern in respect of improving policing delivery. While the design of the literature review was created prior to Te Atawhai o Te Ao's uptake of the project, there has been need to subsequently adjust the research methodologies to accommodate a Kaupapa Māori research approach. Kaupapa Māori research is one of the speciality methods utilised by Te Atawhai o te Ao for most of its research work. A Kaupapa Māori approach puts Māori interests at the centre of the research project, speaks to validity and legitimacy of Māori ways of doing things and is focused on transforming outcomes. The research structure and data collection methods originally specified by the New Zealand Police and the independent panel are adapted to a Kaupapa Māori approach.

3.1 Kaupapa Māori

Kaupapa Māori research is "underpinned by Māori philosophies of the world, that has Māori foundations, that has Māori understandings" (Pihama, 2011, p. 49). Through using Kaupapa Māori research, Te Atawhai o Te Ao (2021a) utilises the following principles adapted from Smith (1997) cited in Pihama et al. (2002) and Pohatu (2005):

- **Tino rangatiratanga**: Self-determination and self-development;
- **Taonga tuku iho:** Cultural aspirations, language, knowledge and culture;
- **Ako Māori:** Culturally preferred pedagogies, methods and practices;
- **Kia piki ake i ngā raruraru o te kāinga:** Mediation of socio-economic impediments that afflict whānau;
- **Whānau:** Extended family structure, cultural values and practices;
- **Kaupapa:** Collective philosophy and buy in to transforming outcomes;
- **Te Tiriti of Waitangi:** Treaty of Waitangi as a foundational instrument for Māori and Pākehā to have respectful relations; and
- **Āta:** Building critically informed views and actions.

While the literature review uses a Kaupapa Māori approach and talks directly to the bias, racism, unfairness and inequities of Māori surrounding policing delivery, the scope also includes intersectional realities to reflect the diversity of various communities living in Aotearoa. Further, this literature review draws on and adapts the principle Te Tiriti o Waitangi through notions of partnership to include the multiplicity and intersectionalities of groups and people living in Aotearoa today who are also affected unfairly within policing delivery based on their ethnicity, race, sexual orientation, gender identity, ability, age, religion or ideology.

More recently, Smith et al. (2017) developed a framework to test the effectiveness of a Kaupapa Māori approach. In summary, he identifies five tests for the veracity of a Kaupapa Māori approach:

1. **Positionality:** Being clear about our social, economic, cultural positioning including our strengths and limitations, in relation to the research;
2. **Structuralist and culturalist considerations:** Understanding the difference between those inequities that are socially constructed by people (Culturalist in origin) and those inequities that are systemically reproduced within our societal structures and which sit out of the control of individuals (Structural impediments);
3. **Criticality:** Do we bring a sufficient critical understanding and tools to our work which can unlock submerged impediments and inequities that may be at stake between dominant and subordinate(d) interest groups;
4. **Transforming:** Is the project sufficiently and intentionally transformative to make a positive difference; and
5. **Praxis:** Continually working in a constant cycle of action, reflection and reflexing.

This literature review uses these Kaupapa Māori methodologies and approaches to position this research as critical and potentially transformative for Māori who are the most impacted by policing delivery in Aotearoa, while accounting for the diverse communities of Aotearoa as well.

3.2 Our researcher positionalities

Kaupapa Māori approaches infer a range of self-analysis through transparency and accountability to those a part of the research while reaffirming the position of being Kaupapa Māori researchers that is critical yet speaks in a way that is accessible (Mikaere, 2011). Through Kaupapa Māori practices and within the context of this literature review, we

are tasked with identifying and analysing our researcher positionalities surrounding policing delivery. We are all Māori who are also Kaupapa Māori researchers with overlapping intersectional identities spanning across diverse races, ethnicities, sexualities, gender identities and religions. Further, through our work with Te Atawhai o Te Ao, we all have strong connections to our various intersectional communities.

Through our past and present research projects, we have encountered the way policing delivery impacts negatively on Māori in the criminal justice system and issues of racism. Through the research, *He Kokonga Whare: Māori Intergenerational Trauma and Healing Research Programme* (2011-2016), funded through the Health Research Council of New Zealand, we undertook one specific project, which examined the health and well-being of Māori prisoners on reintegration into the community (MacLachlan, 2014; Rattray-Te Mana, 2016). This project surfaced queries around intergenerational trauma and the subsequent impacts of colonial racism, which has led to our present project, the *Whakatika Research Project*, which is examining everyday Māori experiences of racism. This project on everyday racism sits under the research programme, *He Kokonga Ngākau: Māori ways of healing, recovery and well-being* (2018-2022), funded by the Health Research Council of New Zealand (Smith et al., 2021c; Te Atawhai o Te Ao, 2021b).

These previous projects have informed our collective response that uses rangatiratanga as an avenue to restoring Māori well-being against racism (Smith et al., 2021d). In terms of our collective researcher positionalities, both racism and policing delivery with these past and present research projects as well as harmful lived experiences has created a range of attitudes towards the police that include distrustfulness, fearfulness and uncertainty. However, through this literature review, we intend to make a Kaupapa Māori methodological contribution that could bring about meaningful and structural change within policing delivery to benefit and represent those who are most vulnerable within our communities due to a range of overlapping oppressive systems.

3.3 Data collection

Te Atawhai o Te Ao began this grey literature review in the beginning of September, 2021 and were tasked with collecting data that focused on policing delivery. The New Zealand Police compiled a list of organisations for establishing contact where data collection requests could be made. Te Atawhai o Te Ao established two phases for data collection:

Phase 1: Collating publicly accessible resources and contacting listed organisations;

Phase 2: Direct and regular communications between Te Atawhai o Te Ao, the New Zealand Police and the independent panel as well as on-site visits to the listed organisations.

Two letters from our organisation and the New Zealand Police were emailed to the listed organisations. The letters both outlined that we sought a grey literature stocktake pertinent to the following:

1. Who the Police stop and speak to and how Police engage with them;
2. Use-of-force decision-making; and
3. Charging decision-making.

The letter requested that the grey literature be emailed to Te Atawhai o Te Ao or that their organisational files relevant to the stocktake be uploaded to a specific Dropbox no later than 30 September 2021.

3.4 Organisations contacted

There were a number of listed organisations that were contacted and requested for grey literature materials relevant to policing delivery and the three areas of concern (See Table 1.).

Table 1. Listed organisations for contact

• Ministry of Justice	• New Zealand Police	• Department of Corrections
• Oranga Tamariki	• Crown Law Office	• Serious Fraud Office
• Te Puni Kōkiri	• Ministry for Pacific Peoples	• Office of Ethnic Communities
• Ministry of Health	• The Mental Health and Wellbeing Commission	• NZ Disability Support Network

• Disabled Persons Assembly	• Ministry of Women's Affairs	• Race Relations Commissions
• Humans Rights Commission	• Race Relations Commissioner	• Institute of Criminology (Victoria University of Wellington)
• Ngā Pae o Te Māramatanga	• Auckland University of Technology Law School	• School of Law, Criminal Justice, University of Canterbury
• Human Rights Review Tribunal	• Waitangi Tribunal	• Office of the Ombudsman
• Royal Commission of Inquiry into Abuse in State Care	• Independent Police Conduct Authority (IPCA)	• JustSpeak
• Amnesty International	• Peoples Against Prisons Aotearoa (PAPA)	• Council for Civil Liberties
• Various Māori and Pacific Research Organisations	• Community Law Centres	• Various Independent Researchers
• NZ Law Society	• Te Wānanga o Raukawa (Māori Law and Philosophy)	• Various research grant organisations
• Criminal Cases Review Commission	• Ministry of Social Development	• RainbowYouth
• New Zealand Prostitutes Collective	• Department of Prime Minister and Cabinet (DPMC)	• Action Station Aotearoa
• Commissioners Māori Focus Forum	• Borrin Foundation	• Australia New Zealand Policing Advisory Agency (ANZPAA)

3.5 Challenges of data collection

During hui between the New Zealand Police, the independent panel and Te Atawhai o Te Ao, advocacy groups were identified that had conducted significant research on individual experiences of police bias and delivery within Aotearoa. However, these groups were hesitant to share this information with the New Zealand Police, choosing to protect the mana of those who had participated in their studies, which was understood and respected from Te Atawhai o Te Ao. Further challenges included duplications of ministerial publications and reports that were named and labelled differently as well as the large amount of international grey literature received. The scope of this literature review only

encompasses national literature, however specific data relating to policing bias and delivery from the United Kingdom and the United Stated of America was received but not included in the writing. While the deadline for receiving literature was outlined within the letter sent to numerous organisations, Te Atawhai o Te Ao were still receiving literature until the submission of this literature review. There were significant time constraints that were placed on this literature review to be written within a three-month time frame. These issues of literature being received after the specified date and the time constraints impacted on our researchers to effectively analyse, write and edit this literature review for submission and perhaps institutions were unable to meet the requested time frame.

3.6 Descriptive analysis and thematic analysis

The New Zealand Police and the independent panel outlined the preferred use of descriptive analysis and thematic analysis for this grey literature review. Descriptive analysis is a type of method used to examine quantitative data, aiming to summarise, describe and show patterns. Thematic analysis is used to examine qualitative data, looking at emerging patterns from the literature, codifying, interpreting and categorising themes of the data into the study context. Both of these forms of analysis have been used within this study context throughout the literature and these analyses used here are intended to give a wider frame for examining policing, policing delivery and the criminal justice system in Aotearoa (Blank-Penetito, 2019; Bold-Wilson, 2018; Cram et al., 1999; IPCA, 2020; Nakhid et al., 2016).

4. Results

Te Atawhai o Te Ao received a total number of 382 grey literature materials. The grey literature was arranged according to the organisation or through its dissemination.

Table 2. Total number of grey literature materials

Organisations	Number of publications
Action Station	1
Amnesty International	4
Centre For Social Research And Evaluation	1
Controller And Auditor General	2
Disabled Persons Assembly and CCS Disability Action	4
Doctoral or Masters theses	60
Corrections and Ministry of Justice	29
IPCA	26
New Zealand Police	100
Government Inquiry Into Mental Health and Addiction	5
Hāpai I Te Oranga Tāngata	1
Historic Documents	4
Human Rights Commission and Review Tribunal	7
Independent Researchers	36
JustSpeak	6
Media Publications and webpages	5
Mental Health And Wellbeing Committee	3
Ministry For Pacific Peoples	1
Ministry Of Health	3
Ministry Of Social Development	8
Office Of The Children's Commissioner	35
Oranga Tamariki	5
Photographic Submissions	2
Research Institutes	5
Royal Commission	5
State Services Commission	1
Statistics NZ	1
Stir	1
Te Puni Kōkiri	8
The Treasury	1
Waitangi Tribunal	14
Total	382

Table 2. Some of the publications came from specific departments within these organisations. For example, the New Zealand Police grey literature also came from the National Intelligence Centre (NIC), District Intelligence Centres and The New Zealand Police Gazette (NZPG). Doctoral and Masters theses came from all universities within Aotearoa that were contacted. Historic documents included the *Hunn Report* (Hunn, 1960), *The Māori and the Criminal Justice System: A New Perspective He Whaipaanga Hou* (Jackson, 1987), *Puao Te Ata Tu* (Department of Social Welfare, 1988) and *The Report of Matike Mai Aotearoa* (The Independent Working Group on Constitutional Transformation, 2015). The Waitangi Tribunal publications do not include individual supplementary documents for the claims.

The grey literature was scattered across many organisations and were complex to locate with the majority produced from the New Zealand Police, theses and ministerial departments. However, grey literature also encompasses many forms and due to the time constraints, limited resourcing and tight scope of organisations that we had to contact, we were not able to fully capture all of the grey literature that pertains to policing delivery. Important grey literature also includes audio and visual forms of media such as podcasts, art, slam poetry, Ngā Manu Kōrero and social media platforms, which provide an insider perspective of many diverse communities as well as the rangatahi demographic. Moreover, these forms of grey literature were not able to be captured and therefore, are not able to be represented within this literature review.

4.1 Bias, racism, unfairness and inequity in the literature

The New Zealand Police and the independent panel identified that collecting data on the number of grey literature materials concentrating on the terms, bias, racism, unfairness and inequity was important as a means to correlate how these factors relate to police engagement, charging decision-making and prosecution decision-making. In order to address the variety of the grey literature that discussed these terms in relation to the three areas of concern for the New Zealand Police, a matrix was created to help illuminate the distribution of these terms amongst the literature. Overall, the term 'bias' branched into racism and the terms 'unfairness' and 'inequity' were not directly addressed but framed within the wider negative impact on Māori, Pasifika, Black and/or people of colour within the criminal justice system in relation to colonisation or racism (Cram et al., 1999; Human Rights Commission, 2007; Jackson, 1987; Ministry of Justice, 2017; Nakhid et al., 2016; Te Uepū Hāpai i Te Ora Safe and Effective Justice Advisory Group, 2019; STIR & NZPHA, 2021; Workman, 2021).

Table 3. Distribution of terms matrix

Distribution of terms throughout the literature				Discussion of term usage
Bias	Systemic	Structural	141	These terms were used interchangeably and discussed unfairness as well as inequities related to the criminal justice system and prosecution decision-making as a consequence of colonisation.
		Institutional	158	
	Mechanisms	Stereotyping	100	These terms were used to propose that inequitable services were avoidable. Minimal literature from those harmed by the New Zealand Police with these terms.
		Discrimination	163	
		Marginalisation	87	
	Race	Racism	138	Fewer than 20 of these explicitly positioned 'unconscious bias' as a barrier toward reducing racism in policing.
		Colourism	55	Publications using phrases like 'dark-skinned' or 'skin tone' to signal socially assigned identity being used to racialise individuals through skin colour.
	Heterosexism	Gender Orientation	28	2 publications spoke from an insider perspective and most material were training guides or historic publications using outdated and heterosexist language.
		Transphobia	8	
		Sexual Orientation	81	
		Homophobia	15	
	Appearances	Dress	88	These terms associated clothing with understandings of power or deviance.
		Age	236	30 publications focused on young people.
	Disability	Accessibility	6	6 publications had an insider perspective. A large proportion of publications used the word 'accessibility' in relation to arming the New Zealand Police and tactical operations.
		Disability	114	
	Ideologically Motivated Groups	Hate Speech	20	The majority of these are training materials or are from insider perspectives who were targets of hate speech.
		White Supremacy	17	White Supremacy was discussed in relation to structural racism and settler-colonialism. Minimal literature on this term within New Zealand Police communications about Right Wing Extremist groups.

	Nationalism	Xenophobia	8	Insider perspectives from those targeted by xenophobia. Xenophobia was not included in New Zealand Police communications about Right Wing Extremist groups. 1 document only alluded to religious persecution from an insider perspective. Several of these provided unintentional examples of religious persecution that serves to heighten surveillance of religious groups rather than deescalate potential tensions.
		Religious Persecution	9	

Table 3. The distribution of terms matrix highlights where bias, racism, unfairness and inequity are placed and is significant in determining the historic and current state of policing delivery. 190 publications explicitly use the word 'bias'.

5. Discussion

Through the process of conducting thematic analysis on the grey literature against the three areas of concern regarding policing delivery, two overarching themes emerged. These two themes include, the legacy of imperialism and policing delivery practices. The first theme explores imperialism, eurocentrism, intersections of neoliberalism and class as well as white supremacy that have caused historical trauma for various communities, affecting public perceptions of the New Zealand Police. The second theme examines policing delivery practices by discussing the implications of imperialism effecting the New Zealand Police policies and notions surrounding policing by consent as well as police legitimacy.

5.1 The legacy of imperialism

The literature discusses the legacies of imperialism, specifically the practice of colonisation, where British colonial laws were introduced, established, and implemented by asserting and introducing specific views and sets of practices into all sectors of society (Cram et al., 1999; Jackson, 1987; Smith et al., 2021a; Te Uepū Hāpai i Te Ora Safe and Effective Justice Advisory Group, 2019; Workman, 2021). Imperialism and colonisation were imperatives that came with the British settlement of Aotearoa and were tools to enable the colonisation and assimilation of Māori into Pākehā society, particularly where Pākehā views, values, cultural norms and ideals of morality and law became dominant and overarching for the criminal justice system:

> **The justice system is rooted in the same cultural foundations as other major social structures such as the education system; it is inevitably influenced and shaped by the same cultural values and ideals. Indeed, the legal truism that the justice system operates 'one law for all' contains implicit seeds of institutional racism since it is one law based on the English common law with no acknowledgment of specific Māori rights or forms of social control. This foundation and the consequent permeation of monocultural attitudes throughout the justice system impacts upon Māori people in particular ways (Jackson, 1987, p. 12).**

These monocultural foundations of British colonial law is embedded within eurocentrism, which in turn authorised Pākehā privilege allowing Pākehā views, beliefs and values to become the national norm and default culture. This eurocentric emphasis has impacted policing delivery today - how Māori are treated by parts of the policing system and it is also

seen in the high and disproportionate incarceration rates (Hurihanganui, 2021; Jackson, 1987; STIR & NZPHA, 2021; Workman, 2021).

5.1.1 Eurocentrism

Eurocentrism uses racism to create binary spectrums where Pākehā are viewed as superior and an idealised culture and group that epitomises civilised society. On the contrary, Māori are mirrored as an inferior, problematic racial and ethnic group that 'deviates' from dominant 'norms':

> **In New Zealand, the construction of this theoretical base is shaped by European ethnocentrism which implies that differences between Māori and Pākehā can be standardised to produce valid comparisons; an assumption that cultural differences are in fact irrelevant to the particular study... This approach views cultural difference in terms of a conflict in which Māori cultural values have not adjusted or adapted to the dominant Pākehā value system. It's roots lie in an ethnocentric belief that assimilation is the path to true 'progress'... It leads to judgements about what behaviour is acceptable being made according to the dominant Pākehā values. Reasons for non-normative behaviour by members of the minority culture, the Māori, are sought in instances of non-assimilation, or in specific cultural mores of the Māori, they are not sought in the cultural norms of the Pākehā which are impacting upon Māori people (Jackson, 1987, p. 27).**

A consequence of eurocentrism is settler-colonialism that prioritises Pākehā identities protected primarily through colonisation and racism, which ignores intersectional realities that reflect the diversity and multiplicity of society within Aotearoa currently:

> **Tauiwi of colour are a hugely diverse group. The diversity in migration history within the diaspora is considerable, including the distinct experiences of Black New Zealanders. This diversity is one of the considerable challenges of language that forces dichotomies like Māori/Tauiwi. Pasifika communities carry a unique history, migration and relationship to Aotearoa and as a result are often a key absence in the conversations and solutions (STIR & NZPHA, 2021, p. 31).**

Imperialism and eurocentrism are reflected in the poor treatment of women who reported sexual assault to the New Zealand Police even with the Police Sexual Assault Investigation Policy implemented in 1998, which found little change to protect women (Jordan, 2001).

Jordan (2001) also found that women were more likely to be sexually assaulted over their lifetimes but were also less likely to be believed when reporting on violence by the New Zealand Police (Jordan, 2001). For transwomen sex workers, there is an association between the New Zealand Police and historical violence, suggesting that along with Pākehā being placed as the most privileged race and ethnic group, that further intersectional layers such as hetero-patriarchal standards, are also favoured more:

> **In reality, the cops hated who we were and what we did. Cops at the Wharf police station, for example, were dreadful. They'd round us up, take us back to the station, order us to strip, get us to stand naked on desks and perform. They'd humiliate us, bash us (Andrae, 2011, p. 44).**

Further, tools of racism such as deficit theory or 'victim blame' analyses, when aligned with eurocentrism have impacted on many ethnic and racial communities when trying to engage with policing. These communities found that the New Zealand Police often lacked appropriate cultural competencies and ultimately, created slow response times and poor communication with there being an overall dissatisfaction with police ability to deliver safer communities:

> **The perception that police were more likely to judge a migrant as "in the wrong" was prevalent within many communities including Chinese, Middle Eastern, Indian and Korean. Often victims who reported crimes felt they were "interrogated" or "blamed" and it was somehow their fault they had experienced the crime. For instance, a Korean man who was a victim of burglary said he was told not to keep cash at home, which was something he did not do, and some Chinese participants were told they were "stupid" for not having insurance. A number of Chinese, Korean and Indian participants also referred to the fact that police often asked the victim whether they had insurance. They felt this showed the police did not care about the personal items the victim had lost. Indian people remarked that many of their most prized possessions were those that had been handed down through generations, so insurance could never cover their loss. This "lack of sensitivity" added to negative perceptions of police (Ho et al., 2006, p. 15).**

5.1.2 Neoliberalism and class

Workman (2021) argues that neoliberal policies expanded the criminal justice system, increased imprisonment levels and relied on diminished empathy between different classes.

This increased punitive approaches to criminal justice and a reliance by the public on the state, through the New Zealand Police, to address poor communities and poverty. Rākete (2019, p. 98) discusses neoliberalism and class on the criminal justice system, stating:

> **Beyond this merely repressive function, the criminal justice system is also both the inevitable outcome of the individualist ideology of neoliberal capitalism as well as a key site by which this ideology is reproduced. Just as the gruelling surveillance of beneficiaries introduced during the neoliberal reforms was a consequence of the need to shift responsibility for the suffering of the poor onto the poor themselves, criminal justice individualises responsibility for criminal behaviour… This punitive, paternalist philosophy is the ideological superstructure necessary for the maintenance of neoliberal capitalism, which is given form with every beneficiary that is sanctioned and every lawbreaker that is incarcerated.**

Smith (2003; 2015) has described some neoliberal tensions which are often embedded unproblematically within Aotearoa institutional structures and policies. Smith (2003; 2015) argues that many of these neo-liberal elements are in fact, hegemonic outlining eight facets:

1. **Equity:** Level playing field equity vs compensatory forms of equity e.g. the idea that the world is made up of winners and losers is to be taken for granted;
2. **Democracy:** Serves dominant interests with the idea that one person one vote but the majority rule e.g. power by any means necessary;
3. **Individualism**: Primacy of individual freedoms and rights vs collective rights and responsibilities i.e. possessive individualism;
4. **Devolution:** Illusion of 'power sharing' vs self-development e.g. hierarchies of power with one leader at the top and the devolution of responsibility without power or control;
5. **Choice:** Usually within defined parameters e.g. remove choice, more centralised decisions and control; wealthy people have far more choices than less wealthy;
6. **Globalisation:** Internationalise e.g. close borders or retreat into 'self-interested nationalism';
7. **Accountability:** Rise in surveillance e.g. more police, more rules and regulations with no responsibility at centre with no surveillance upwards but the blame shifts down the hierarchy; and

8. **Privatisation**: Public and private partnerships e.g. enhance wealth accumulation through wealthy elite and business entrepreneurs.

Smith (2003; 2015) positions the neoliberal facet of 'accountability' as a critical site for policing delivery. Workman (2021) agrees that neoliberalism facets are embedded within society today and has provided ways for the New Zealand Police to introspectively examine their institutional or structural contribution to oppressive structures such as racism and classism through policing delivery.

5.1.3 Historical trauma

The literature shows various examples of how imperialism, colonisation, racism, eurocentrism and neoliberalism have created historical trauma for many communities in relation to policing delivery and the criminal justice system (Cram et al., 1999; Ho et al., 2006; Human Rights Commission, 2007; Hurihanganui, 2021; Jackson, 1987; Jordan, 2001; STIR & NZPHA, 2021; Workman, 2021). Pasifika communities shared their historical trauma of undergoing state-sanctioned racism and violence through the Dawn Raids, specifically Sāmoan and Tongan communities as well as discrimination and inequities faced by Pasifika communities more broadly (Anae, 2020; Ministry of Pacific Peoples, 2021; Mitchell, 2003; New Zealand Police, 2018). Mitchell (2003, p. 234) notes the negative historical view of Pasifika communities held by the New Zealand Police in 1976 by Chief Superintendent Berriman stating "anyone who speaks in a non-Kiwi accent or looks as though he was not born in this country should carry a passport". This statement was made two days after launching Operation Pot Black, also known as the Dawn Raids. The Dawn Raids showed how:

Racism was lawful, state-sanctioned and enshrined in acts of Parliament: Sāmoan and Tongan communities were targeted by police for incarceration and deportation under the rhetoric of 'overstayer' (Anae, 2020, p. 1).

On the 50th anniversary of the Dawn Raids, the government issued their apology for this event noting its historical trauma:

The emotional harm caused by the Dawn Raids remains etched in the living memory of those who were directly impacted. We understand that many continue to struggle with the emotional harm from the events. It has also been described as an event that has defined Pacific communities' view of government and we understand there is some ongoing distrust and faith in authorities due to those events (Ministry of Pacific Peoples, 2021, p. 5).

The New Zealand Police (2018) have incorporated structural and strategic initiatives designed for Pasifika by Pasifika that plans to develop capacity and capabilities around Pasifika policing recruitment, retention and promotion.

The literature illustrates that historical trauma is only recently being acknowledged within the New Zealand Police. The literature advocates for these oppressive systems being continually identified through being explicitly named and that more intersectional and reflexive structural change is needed. The literature proposes these changes incorporate various marginalised communities involved in high level framework and policy design who were previously harmed by the New Zealand Police. Moreover, the literature argues for the decolonising and dismantling of these oppressive systems, most notably the de-centring of Pākehā views, beliefs and values at the core of the New Zealand Police to better reflect the multiplicity and diversity of Aotearoa, which will change policing delivery (Cram et al., 1999; Human Rights Commission, 2012; Jackson, 1987; JustSpeak, 2020; Morrison, 2009; Te Uepū Hāpai i Te Ora Safe and Effective Justice Advisory Group, 2019; Workman, 2021).

5.1.4 White supremacy and violence

The importance of continually identifying oppressive systems such as racism is exemplified through the New Zealand Police analysis of various white-extremists and right-wing groups that have targeted many ethnic and racial communities, religious groups as well as women (New Zealand Police, 2020a; New Zealand Police, 2020b). Throughout this analysis, bias, racism, unfairness and inequities are not directly named and in doing so, disassociates Pākehā from being complicit in upholding white supremacy. The mobilisation of white extremist groups is dated a year prior to the Al Noor Mosque Terror Attacks in Christchurch and reports were made by the Islamic community with concerns for their safety against white extremism but these concerns were ignored ("Islamic women tell Royal Commission warnings were dismissed," 2020; Enoka, 2018; MacDonald, 2018).

The New Zealand Police (2020a; 2020b) acknowledged the trauma of the Christchurch terror attack but ignored the role of Pākehā within this traumatic event. 'White extremism' significantly underpins much of the violent racism seen within terror attacks. Moreover, the New Zealand Police may be exacerbating the harm caused by racism by not addressing this issue directly as a Pākehā issue as part of their overall analyses. The diminished level of surveillance by the New Zealand Police on such groups; the leniency given to these groups by identifying members in simplistic terms such as "disenfranchised men" (New Zealand Police, 2020a, p. 5, p. 8) seemingly under-estimates some fundamental problematics. There is a need to accurately and more profoundly understand the causal issues in order to

develop more accurate solutions. The failure to be able to see the elements of 'white supremacy' serves to perpetuate these groups' ideologies, and therefore helps to sustain this legacy of imperialism. Smale (2020, p. 1) commented on the aftermath of the Christchurch event, discussing the colour-blindness of the Pākehā public in not addressing all forms of white supremacy, stating:

> **In the immediate aftermath of the Christchurch massacre there was a slogan that did the rounds – "this is not us." Of course only one person is responsible for the bloody slaughter that day. But such a bland response to his crimes displayed a general unwillingness on the part of 'Pākehā' New Zealand to confront the milder forms of white supremacy that degrade and diminish people every day.**

Through the inability to acknowledge racism and white supremacy for what it is, the hetero-patriarchal Pākehā as the idealised social archetype is continually reinforced. This continues the cycle of inequities and can exacerbate views that the New Zealand Police are biased. The literature affirms this by arguing that by not acknowledging or naming racism, unfairness, or inequities through the legacy of imperialism will continue to affect policing delivery (Jackson, 1987; STIR & NZPHA, 2021; Te Uepū Hāpai i Te Ora Safe and Effective Justice Advisory Group, 2019; Workman, 2021).

5.2 Policing delivery practices

In response to the Al Noor Mosque Terror Attacks, the New Zealand Police launched the Armed Response Trial (ART) in late October, 2019 in Canterbury, Waikato and Counties Manukau. The announcement of the ART received significant criticism from many communities and media as Māori and Pasifika were severely at risk of being targeted citing that Māori were "8 times more likely than Pākehā to be on the receiving end of police force" at the time (Hanna, 2019; Hart, 2020; Neilson, 2020, p. 1; Waitangi Tribunal, 2020a; Waitangi Tribunal, 2020b). The Waitangi Tribunal Claim 2944 (Waitangi Tribunal, 2020a, p. 2) brought forward by Julia Whaipooti and Kim Workman stated that the ART are Crown breaches of Te Tiriti o Waitangi, as the process was:

> **Failing to work in partnership with, consult, or even inform Māori about the ARTs trial; failing to actively protect Māori as ARTs are likely to result in disproportionate risk and harm to Māori; and failing to have an open and**

> **transparent evaluation and decision-making process on the future of ARTs that reflect partnership with Māori.**

The Waitangi Claim 2949 (Waitangi Tribunal, 2020b, p. 4) in relation to armed Police brought forward by Emilie Rākete on behalf of People Against Prisons Aotearoa (PAPA) reiterated these issues and concerns, pointing to racism at all levels and bias held within the New Zealand Police, stating:

> **Research and statistics demonstrate significant bias in Police use of force against Māori. The Crown has itself recognised that unconscious, structural and systemic bias exists within Police against Māori. Police continue to disproportionately use force against Māori in breach of Te Tiriti o Waitangi and its principles of active protection, equity and partnership, and in breach of section 8 and 9 of the New Zealand Bill of Rights Act 1990. The Crown has failed to take adequate steps to interrogate and address this disproportionate use of force and have instead facilitated and allowed Police to obtain greater access to weapons.**

The New Zealand Police (2021c, p. 33) have reaffirmed these notions but in a broader public context about their perception, stating:

> **...routine arming of Police, and visibility of firearms, might negatively impact how some members of the public perceive and interact with Police... noting the relationship between Police and the public would likely improve after some time if Police aggression did not increase.**

5.2.1 Policing by consent

The New Zealand Police (2021c, p. 33) have adopted policing by consent as a policy and practice aimed at remediating these historical and racial tensions arising from armed Police, stating:

> **A key principle of policing by consent centres on use of force by Police Officers. This principle says Police Officers are 'to recognise always that the extent to which the co-operation of the public can be secured diminishes proportionately the necessity of the use of physical force and compulsion for achieving police objectives.'**

Policing by consent is defined by the New Zealand Police as:

> **The notion of 'policing by consent' underpins the style of policing we have in New Zealand, and allows Police to work closely with communities, iwi and other partners to help prevent crime and harm under its Prevention First operating model. This model places a strong emphasis on identifying and addressing the underlying drivers of crime, and working with partners to connect individuals experiencing social dysfunction with the support they need to improve their lives (New Zealand Police, 2020c, p. 3).**

The New Zealand Police (2020c; 2021c) use policing by consent to underpin who they engage with, how they provide tactical responses and prosecution. Workman (2021, p. 7) provides the historical context for policing by consent and critiques its alignment with protecting classism:

> **Policing by consent came to mean providing the middle classes with visible, polite security symbols while refraining from trampling on their interests or encroaching too far on their daily lives. By the 1990's, the Police were seen as protectors of the largely white middle class.**

There is minimal literature discussing the structural implementation of policing by consent within the New Zealand Police and the perceptions of policing by consent from marginalised communities who historically, have complained about unfair treatment by the New Zealand Police. The literature agrees that policing by consent is upheld through building trust, transparency and accountability (New Zealand Police, 2020c; 2021c; Workman, 2021). However, policing by consent must acknowledge and establish processes and practices to mediate racism and historical trauma in order to rebuild community trust in the New Zealand Police.

5.2.2 Police legitimacy

The literature shows that there are challenges to the legitimacy of the New Zealand Police due to international and national instances of police brutality on marginalised communities (Smale, 2020; Waitangi Tribunal, 2020b; Smith et al., 2021b). The legitimacy of various policing practices has been raised, querying whether the New Zealand Police are indeed keeping communities safe, as the Waitangi Tribunal (2020b, pp. 1-2) argues:

No one is born a criminal. When someone hurts others, that does not mean they are destined to keep hurting others for the rest of their lives. If people are treated with dignity, respect, and given the resources they need to survive and thrive, we can live in a less violent and more peaceful society.

The literature reiterates these ideas of police legitimacy within the context of imperialism, racism and historical trauma, arguing that if communities were well-resourced that violence would lessen, which would fundamentally change policing delivery (Curcic, 2019; Hill, 2015; Rawlinson, 2018; Smith et al., 2021b; Waitangi Tribunal, 2020b).

While there is an international and national rise in public consciousness surrounding social justice, only minimal research within the New Zealand Police policies and practices to improve on policing delivery and training has taken place that aligns with public criticisms on imperialism and race (New Zealand Police, 2019). Although undergoing minor changes (See Schollum, 2006), the way these oppressive systems operate within New Zealand Police policies and practices through its training documents, which include *Investigative Interviewing Witness Guide* (New Zealand Police, n.d.-a), *Investigative Interviewing Suspect Guide* (New Zealand Police, n.d.-b) and *Police Involvement in Deaths and Serious Injuries* (New Zealand Police, n.d.-c) have yet to reflexively explore their witness criteria against imperialism and racism.

An example is assessing whether the New Zealand Police witness criteria centres whiteness or being Pākehā as the default for which everyone else is measured against, which has been proposed by Cook (2021). The current witness criteria imply notions that oppose policing by consent values and practices, which are underpinned by collective support, holistic evaluation and preventive measures. In particular, the criteria for 'special consideration' from the *Investigative Interviewing Witness Guide* (New Zealand Police, n.d.-a) when evaluating witnesses includes those that have a history of offending. However, New Zealand Police data indicates that repeat offending is a determinant for disproportionate negative outcomes within the criminal justice system (Ministry of Justice, 2017). Further, the *Police Involvement in Deaths and Serious Injuries* (New Zealand Police, n.d.-c) and IPCA (2012) *Deaths in Custody 10 Year Review*, highlight that the needs of many overlapping institutions and the New Zealand Police are placed before the needs of the community and those directly impacted. Elers (2012) reaffirms that radical change is needed to improve the organisational hierarchy and culture of the New Zealand Police, which will provide better outcomes for many communities rather than being exclusively responsive to Pākehā. Moreover, the literature states that reassessing internal New Zealand Police policies and

practices critically with intersectional and reflexive means has the potential to reduce discrimination within policing (Elers, 2012; Cook, 2021; Morrison, 2009; Nakhid et al., 2016). Addressing the historical harm of the New Zealand Police internally through policy design and implementation can potentially reconcile the legitimacy of police externally and in the public eye.

5.2.3 Disproportionate police engagement, use of force and prosecution

Morrison (2009) has stated that at the time, the New Zealand Police did not hold any data that catergorise individuals or communities based on ethnicity or race, alluding to an attempt at concealing the disproportionate outcomes for those who are not Pākehā. Smith et al. (2021b) encountered similar international examples where the police and the criminal justice system did not want to perpetuate ethnic or racial stereotypes by opting to either not record those occurrences or release these statistics into the public. However, these approaches proved to be hegemonic forms of racism known as colour-blindness that further harmed more vulnerable and marginalised people who have different intersectionalities within ethnic or racial communities. This can include one example of intimate partner violence perpetuated on Māori women by Māori men where these statistics are withheld and in doing so, can be indirectly harmful for Māori women and Māori men in addressing violence.

Hanna (2018) and JustSpeak (2020) have used quantitative analysis to measure the disproportionate outcomes within the New Zealand Police and the criminal justice system on those who do not fit the archetype of hetero-patriarchy and Pākehā against Integrated Data Infrastructure (IDI) supplied by Stats NZ (2021). Hanna (2018) collated an interactive data visualisation highlighting how the New Zealand Police's use of force has a disproportionate impact on Māori. Hanna (2021) has stated that information between 2014-2017 was available but that accessibility through the New Zealand Police to obtain raw data had been difficult to achieve. Stats NZ (2015) have provided a report to the New Zealand Police surrounding police crime data to test quality and infrastructure that has been publicly released, but not to examine disproportion according to ethnicity or race. Hanna (2018) illustrates the disproportionate use of force on Māori by the New Zealand Police through the following tactical options:

- Baton;
- Dog;
- Empty hand;

- Firearm;
- Handcuffs;
- OC Spray;
- Taser;
- Other (the specifics of these tactics are not stated); and
- Any (any number of tactical options used by the New Zealand Police).

Hanna (2018) reinforces that police engagement and charging decision-making have disproportonately impacted on Māori within policing delivery and the criminal justice system.

JustSpeak (2020) offer graphical insight into the intersectionalities of Māori women within police engagement, charging decision-making and prosecution decision-making. JustSpeak (2020) found that Māori women are most at risk in their late teens to early 20's to receive a police court proceeding than a Pākehā woman. Māori men were most at risk in their late 30's to early 40's to have a police court proceeding than a Pākehā man. For both of these findings, Māori women and men are always more likely to have a police court proceeding than Pākehā women or men. Through contact with JustSpeak (2020) for this literature review, further graphical evidence reflecting the criminal justice system disproportionately affecting Māori was provided. The figures below show the distribution of risk associated with women and men who have had no prior contact with the criminal justice system across different age groups. The data below has been adapted from JustSpeak (2020) with their ethnic and racial classifications as European, Māori/European and Māori, which we understand as self-assignment of ethnicity and race according to census data. This data correlates with New Zealand 2013 census data.

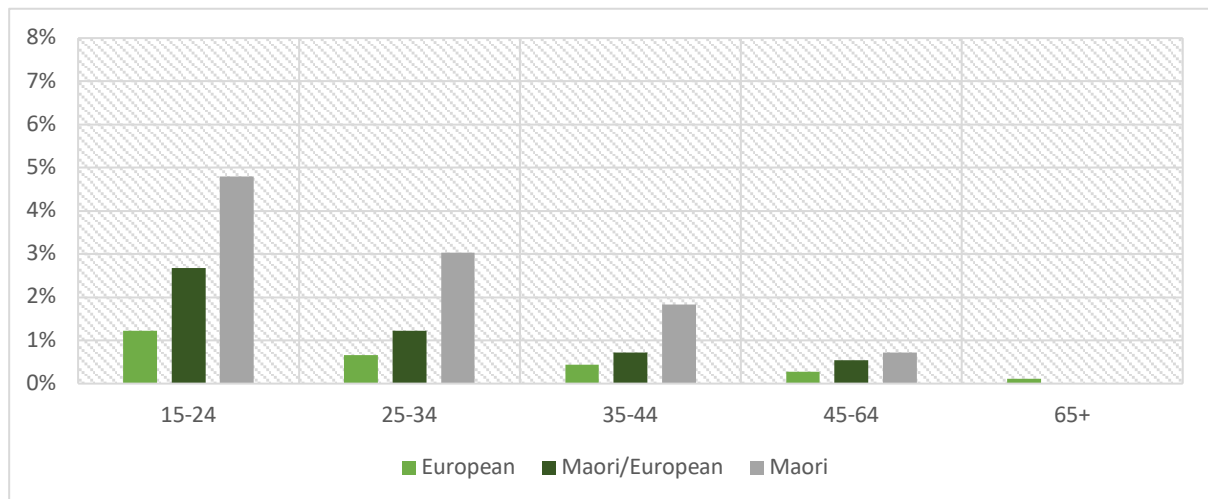## Figure 1. Risk for women

Figure 1. The data suggests that 4.8% of Māori women aged between 15-24, with no prior contact with the justice system will have one or more police proceedings in the coming 12 months. For women between 25-34 this drops to 3%.
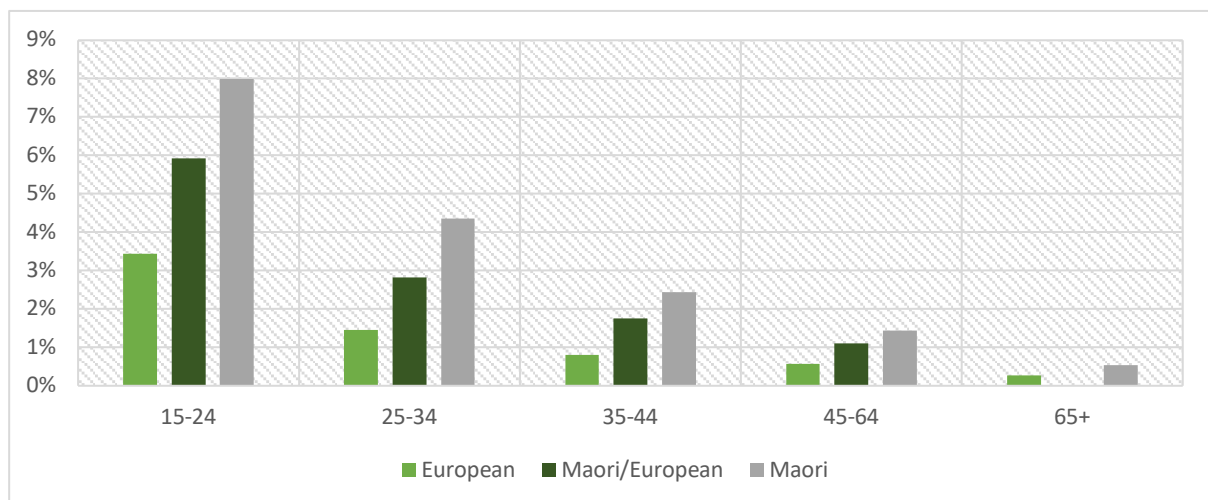
Figure 2. Risk for men

Figure 2. The data shows that 8% of Māori males aged between 15-24 with no prior contact with the justice system will have one or more police proceedings in the coming 12 months. For men between 25-34, this is 4.3%, for men aged between 35- 44, this risk drops to 2.5%.

The relative risk for Māori women and men was also shared for this literature review from JustSpeak (2020), revealing a measure of risk regarding no prior contact with the criminal justice system occurring for Māori and Māori/European in comparison to European communities.
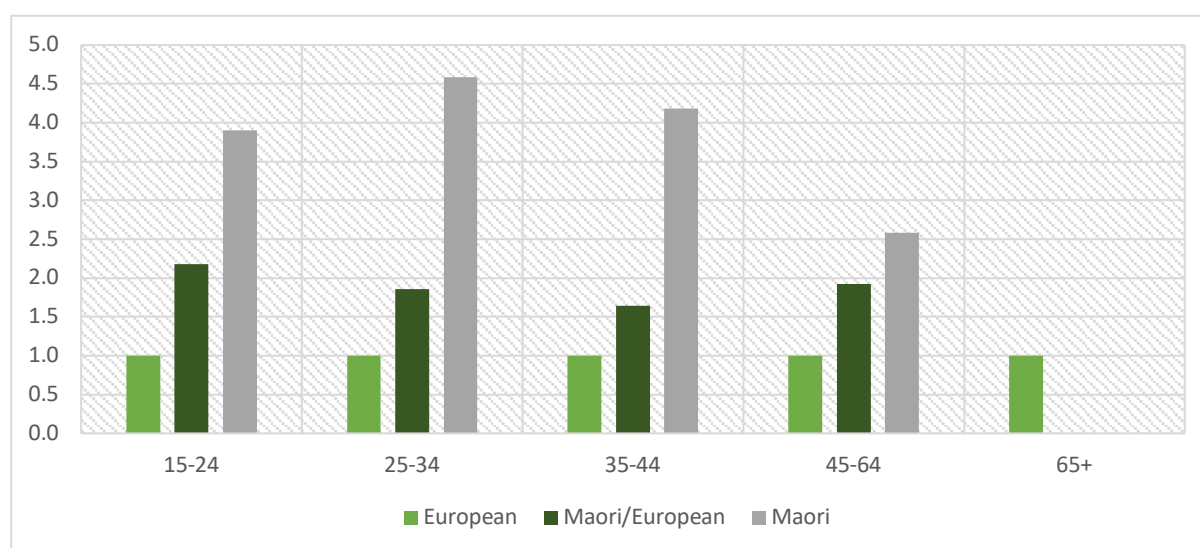
Figure 3. Relative risk for women

Figure 3. The relative risk for women is far more visible, with Māori women with no prior justice system contact between the ages of 25-44 being more than four times as likely than European women to have one or more police proceedings in the next 12 months.
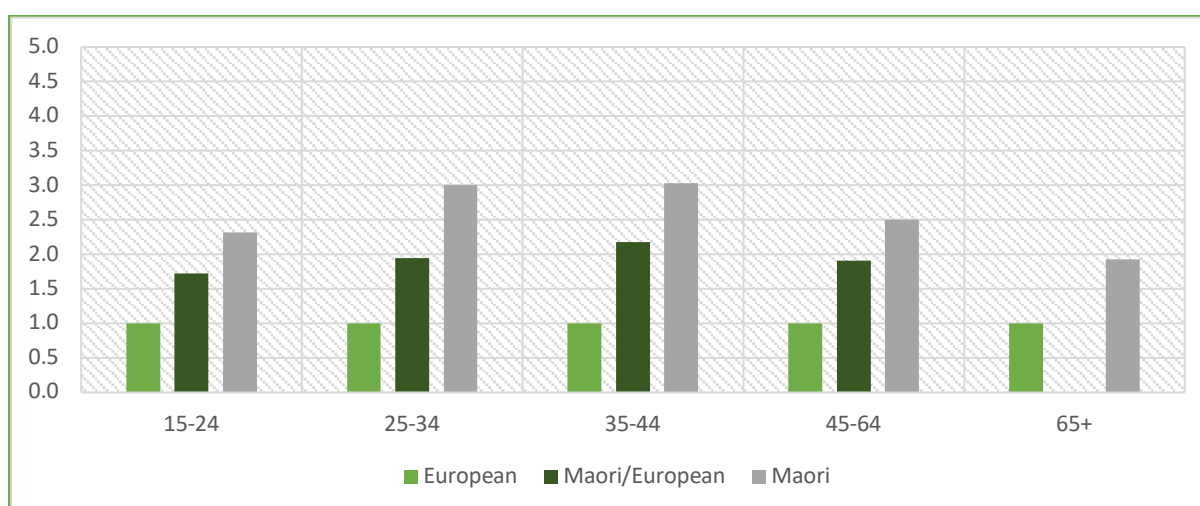
Figure 4. Relative risk for men

Figure 4. Māori men are three times more likely to have one or more police proceedings in the coming 12-months. This remains the same for Māori men aged between 35-44.

JustSpeak (2020) provided data surrounding socio-economic determinants in relation to ethnicity and race using inverse probability weighting. JustSpeak (2020) summarised that first-time police risks are higher for both Māori and Māori/European communities even when adjusting for socio-economic determinants. The Ministry of Justice (2017) shows the use of iwi panels as an alternative solution to prosecution, which is affirmed as a positive answer elsewhere through youth-court proceedings of Ngā Kōti Rangatahi (Youth Courts) that uses a Kaupapa Māori and tikanga aimed at prevention, intervention and community support (Blank-Penetito, 2019). The Ministry of Justice (2017) illustrates a profile of Māori

adult offending between 2011-2017, where the number of proceedings against Pākehā has dropped 43% and the number of proceedings against Māori has dropped to 28%. The Ministry of Justice (2017, p. 30) also states that "this means the proportion of offending (with a known offender) committed by Māori compared to other ethnicities has increased by 5% from 36.1% in 2011 to 41.1% in 2016/17." While this previous data on disproportionate police engagement, use of force and prosecution shows a quantitative perspective, Cook (2021) argues that there are challenges in attempting to quantify bias within the system as it is hindered by changing measures, such as ethnicity, that may not be consistent over many departments. This statistical literature shows that the New Zealand Police play an important role within the criminal justice system in perceiving threats and using tactical decision-making, which has negatively impacted on Māori (Cook, 2021; Hanna, 2018; 2021; JustSpeak, 2020; Ministry of Justice, 2017).

6. Conclusion

This literature review collated and examined grey literature pertaining to New Zealand policing delivery in three areas of concern, which includes; who the police stop and speak to and how police engage with them; use-of-force decision-making; and charging decision-making. These three areas of concern were contextualised amongst the broader structures of bias, racism, unfairness and inequity within the criminal justice system of Aotearoa using descriptive and thematic analysis. The literature review shows that imperialism has instilled a legacy of eurocentrism, neoliberalism and white supremacy. These foundational worldviews, values and beliefs were introduced and integrated covertly as a core component of policing delivery and the criminal justice system that often impacts on Māori being negatively overrepresented disproportionately to Pākehā. Further, these negative impacts have shown that anyone who does not fit into the colonial ideal of Pākehā hetero-patriarchy seem more likely to be harmed by the New Zealand Police.

The literature found that key to unravelling these issues is placing marginalised and vulnerable communities in high level positions of power to design and implement frameworks, policies and practices that reflects the current intersectional diversity of Aotearoa and to keep communities safer. The New Zealand Police are beginning to address these issues through diverse police recruitment and retention incentives, but the literature advocates for more by shifting power to those representing vulnerable communities in key strategic levels. For Māori, this key power shift is seen through the emerging literature on the use of Kaupapa Māori frameworks in the criminal justice system that has been positive

with Māori based options of prosecution as a solution that could be more widely implemented and normalised societally.

Kaupapa Māori research and frameworks are transformative and they provide metrics for restoring the well-being of Māori, which is a potential solution to the overrepresentation of Māori within the criminal justice system reflected throughout this literature review. Further, this report recommends that studies surrounding policing delivery be expanded and augmented to include other forms of grey literature that were not able to captured within this report alongside ethnographic studies that use triangulation to test the rigour of literature, observed evidence and lived experiences to expose the validity of research findings. The grey literature scope only provides a small sample of the research regarding policing delivery. Additional recommendations from this literature review show the need for the New Zealand Police to reflexively address and test their own policies against imperialism and racism that seeks fundamental transformation within policing delivery to reflect and understand the diversity of Aotearoa today. Diverse communities are placed within singular categories throughout the literature as a shorthand, with examples that include 'ethnic' or 'racial' communities, which can be problematic in many spaces. These categories can further homogenise anyone who is not Pākehā or hetero-patriarchal. There is lost potential in policing delivery practices that do not engage with Kaupapa Māori, Te Tiriti o Waitangi, imperialism, racism or historical trauma within the communities it has to protect.

The terms, 'bias' and 'unconscious bias' have become more harmful by hegemonically perpetuating racism by making it invisible through colour-blindness. Ultimately, 'bias' has become a scapegoat for not addressing racism directly and the literature shows that the New Zealand Police and the criminal justice system has been uncomfortable with racism and the legacy of imperialism. Through consistently addressing racism and historical traumas left by colonisation within police framework and design, systems such as policing by consent and police legitimacy may be able to be accepted by the public after a period of accountability surrounding previous police harm as well as restoration of those being harmed.

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Glossary

Aotearoa	New Zealand
iwi	tribe, nation
Kaupapa Māori	a philosophical doctrine, incorporating the knowledge, skills, attitudes and values of Māori society
mana	power, status, prestige, and the potential to provide or remove benefits
Māori	Indigenous peoples of Aotearoa
Ngā Kōti Rangatahi	Youth Courts
Ngā Manu Kōrero	National Secondary School speech competition
Pākehā	European settlers of New Zealand
rangatahi	Youths
takatāpui	sexually and gender diverse Māori
tauiwi	foreigners
Te Atawhai o Te Ao	a Māori Independent Research Institute, the organisation conducting the research project; responsible for conducting the research
Te Puna Haumaru	New Zealand Institute for Security and Crime Science at the University of Waikato
Te Uepū Hāpai i Te Ora	Safe and effective Justice advisory group