

REPORT OF THE HON SIR DAVID TOMPKINS QC

TO

THE COMMISSIONER OF POLICE

CONCERNING THE COUNTIES-MANUKAU POLICE DISTRICT

Thursday 29 September 2005

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To: The Commissioner of Police

**Report of the Enquiry concerning
the Counties-Manukau Police District**

Background

[1] In February 2005 charges of assault laid against Senior Sergeant Solomona were heard in the District Court at Manukau. During the hearing, evidence was given of certain photographs said to have been in the possession of the Senior Sergeant. As a consequence of these references and evidence given concerning them, the District Court Judge, in his judgment delivered on 2 March 2005, referred to the practice of taking photographs of suspects or offenders of a demeaning kind and recorded his impression from the evidence that this practice maybe widespread, especially in the South Auckland area. Referring to evidence that this was regarded by the police as a joke, he observed that "the culture is as sick as the joke".

[2] These observations, and the widespread media publicity they attracted, caused the Commissioner of Police to set up an internal police inquiry that was named Operation Reason. On 4 March 2005, I was asked to oversee the inquiry and to report my findings to the Commissioner. This report describes the investigations that were carried out and my findings resulting from them.

[3] Under my oversight, the enquiry was undertaken by a team of three senior police officers ("the enquiry team") over a period of approximately three months. Initially the enquiry team was headed by Inspector Pieter Roozendahl. He was not able to continue, and was replaced by Inspector Allan Boreham. Pending Inspector Boreham taking over on 18 April 2005, the enquiry was managed by Superintendent Graeme Cairns. The other two members of the enquiry team were Senior Sergeant Lance Burdett and Senior Sergeant Chris Powell. Mr Jayson Rhodes, Manager -

Communications for North Shore Waitakere Rodney managed the media side of the investigation.

Summary of Findings

[4] My findings resulting from the enquiry are:

- [a] There was a practice of taking degrading and inappropriate photographs of arrested persons. This practice was limited to a relatively few officers, all connected to the now disbanded Emergency Response Group (“the ER Group”). There is no evidence of the practice since the ER Group was disbanded on 31 March 2004.
- [b] There were a number of instances reported, approximately twenty over a period of some five years, of police officers adopting an overly aggressive stance resulting in the use of excessive force, mostly during the arrest process, but also at police stations. These instances related mostly, but not exclusively, to members of the ER Group and senior NCOs with a history of complaints. Although the use of excessive force has been reduced, it has probably not been eliminated.
- [c] The practice of taking inappropriate photographs referred to in [a] and the use of excessive force referred to in [b] did not amount to a culture of excessive violence or inappropriate conduct within the terms of reference, as they were not practices adopted or condoned by a significant number of police in the Counties-Manukau Police District. Rather they are indicative of some localised issues around the now disbanded ER Group.
- [d] In most but not all of the instances referred to in [a] and [b], the “blue code of silence” resulted their not being reported.
- [e] The Counties-Manukau Police District is a more demanding and violent district to police than other New Zealand police districts. It has more serious crime events in absolute terms, by population and by

severity i.e. as a percentage of all events logged. The differences between Counties-Manukau and other metropolitan centres are large and statistically significant.

- [f] As a consequence of [e], there are a higher number of severe assaults on police than are experienced in comparable districts.
- [g] There are more complaints against police officers in the Counties-Manukau Police District than in comparable districts. At more than 200 a year, the number of complaints has been consistently above the national average. Most, but not all, of the complaints have been properly recorded and investigated. The enquiry team did not find evidence of complaints involving Criminal Investigation Branch, non-sworn staff or specialist Road Policing officers.
- [h] The Counties-Manukau Police District is policed by a high proportion of relatively junior police officers. Staffing numbers have been under strength. Supervisory positions such as Sergeant and Senior Sergeant have been filled by junior officers acting in a temporary role for longer than desirable. There have been a high number of vacancies, which tend to be filled with inexperienced staff.
- [i] The public has a level of confidence in the police in the Counties-Manukau Police district that is lower than the average satisfaction rating of the 12 districts.
- [j] Several steps have been taken to improve the standard of policing in the Counties-Manukau Police District.

The Terms of Reference

- [5] Terms of reference are:

To determine whether there is evidence of a police culture that condones or encourages acts of violence or other inappropriate

treatment towards prisoners, suspects or other persons in the Counties-Manukau Police District.

[6] The existence of a culture within the police force has long been accepted by the police and by academic researchers. In her article *The Police Culture: Overcoming Boundaries* Criminology Australia October November 1993, Commander Barbara Etter referred to the “properties” of police culture listed by A.S.Blumberg in his article *The Police and the Social system: Reflections and Prospects*, the Ambivalent Force: Perspectives on the Police 1985, as kinship and solidarity; common hazards and dangers; respect for power and authority; secrecy; loyalty; a sense of minority group status; political conservatism; social isolation; and pressure to produce (pp13–18).

[7] This enquiry is not concerned with these broad characteristics of police culture. The terms of reference refer only to a particular police culture of the kinds described. The issue rather is whether there has been and still are assumptions, customs, beliefs and practices generally adopted by a significant number of the police in the Counties–Manukau Police District, that condone or encourage acts of violence or other inappropriate treatment towards prisoners, suspects or other persons in the District. The enquiry is not concerned with isolated incidents, as they would not amount to “police culture” in the context in which that phrase is used in the terms of reference. But isolated incidents may still be important and require investigation, as they may be indicative of a practice that falls within the terms of reference.

[8] Inappropriate treatment will include treatment that denigrates or demeans the person. It will also include treatment or practices of a sexist or racial nature involving members of the public, that can properly be regarded as inappropriate.

[9] The terms of reference refers to acts of violence. Police officers are legally justified to use force to complete their lawful duties. As part of their work, officers will be required to use reasonable force to overcome resistance, effect arrests, prevent breaches of the peace and protect themselves and others. Violence of the kind referred to in the terms of reference will include any act of unjustified or excessive use of force that would constitute an assault.

[10] This enquiry is not concerned with how the police behave to each other – what is sometimes referred to as the police canteen culture. The terms of reference refer to treatment towards prisoners, suspects or other persons. The words “other persons” are to be construed in the same way as the preceding words. They will include other members of the public with whom the police come in contact in the course of their duties. They do not include, in my opinion, the treatment of members of the police towards other members of the police.

[11] Evidence that emerged from this enquiry illustrates an aspect of police culture that has been referred to as “the blue code of silence.” This arises from the tension between professional integrity and group loyalty, the former requiring an officer to report inappropriate behaviour by a colleague, the latter exerting pressure not to “dob in” another – the requirement to be loyal and not snitch on colleagues. This aspect of culture was the subject of a detailed study in England, reported by Louise Westmarland in her article *Police Ethics and Integrity: Breaking the Blue Code of Silence* (2005) *Policing and Society* Vol 15, No 2. One of her conclusions was that “. . . the sense of solidarity and peer approval is a strong and not altogether negative aspect of police culture.” A feature of this is the extent to which officers are confident that senior officers will back up the individual whistle blower, if the officer does report a colleague.

[12] Westmarland refers to a study of new recruits by J.B.L.Chan *Fair Cop, Learning the Art of Policing* (2003), University of Toronto Press, Toronto, where she found that new recruits were quickly socialised into a culture of not telling and discovering that, unless the offence was serious enough, to blow the whistle was extremely inadvisable. I will refer to instances where the code of silence has been adopted by some police officers.

Overseeing the Enquiry

[13] It was my function to oversee the enquiry, not to make the necessary investigations. This oversight was achieved in the following way. Each week I received from the enquiry team a detailed account of the team's activities during the

previous week and the investigations it proposed to undertake in the immediate future.

[14] As the enquiry progressed, I was supplied with all the statements taken from persons interviewed and the relevant responses from the canvassing. I read all this material. I was also supplied with a considerable amount of additional information, data, statistics, policy statements and the like which I also considered. By these means I was kept fully informed of the progress of the enquiry.

[15] To enable me better to appreciate the situation in the Counties-Manukau Police District, on two occasions I traveled with police officers late on a Friday and Saturday night throughout the district, visiting some of the police stations, meeting police officers on duty, visiting scenes of police activity and listening to the police radio.

[16] When the enquiry phase was concluded, I received from the enquiry team a comprehensive report on the whole of the enquiry process, summarising the information obtained and setting out the enquiry team's conclusions. The report had annexed it a number of schedules containing more detailed information. This report and material were particularly helpful.

[17] In the course of this report, I will refer to some senior police officers such as district commanders by name. But where references are made to what may be inappropriate conduct by police officers, I will not name the officer concerned for two reasons. First, it is not for this enquiry to identify possible misconduct by individuals. Secondly, it would be contrary to natural justice to identify persons alleged to have been responsible for inappropriate conduct without giving those persons the opportunity to be heard. It is not for this enquiry to conduct such hearings.

[18] Where the evidence does not relate to inappropriate conduct, I generally do not name the officers concerned in the interests of their privacy.

The Solomona trial

[19] Senior Sergeant Solomona was charged with five counts of assault arising from three separate incidents that occurred in February and March 2004 involving three complainants. The charges were heard in February 2005. The details of the charges and the evidence relating to them are not directly relevant to this enquiry, but some of the evidence that was given and observations made by the trial judge clearly are.

[20] At the time of the events to which the charges related, Senior Sergeant Solomona was the head of Section IV of the ER Group. I describe the role of the ER Group at [48] and following. By the time of the hearing of the charges, the ER Group had been disbanded. At the relevant time Section 4 consisted of about 14 police officers.

[21] The trial judge, Davidson DCJ, delivered his oral judgment on 2 March 2005. In the course of the judgment he observed that there emerged evidence of some disturbing police practices and aspects of police culture. He referred to this in more detail in the last paragraph of his judgment:

“Police Practices:

[113] I cannot leave this case without a final comment. During the hearing of these charges disturbing evidence about the police practice of taking photographs of suspect or offenders holding signs similar to that described by Bradley Death emerged. My impression from the evidence is that this practice may be reasonably widespread especially in the South Auckland area. This practice was described by Sergeant Nelson as a joke of a kind someone outside police culture would not understand. Little more needs to be said about that than this. In my view the culture is as sick as the joke.”

[22] The evidence to which he was referring concerned a photograph of a 16 year old young man, who was one of the complainants, with a sign hanging around his neck with the words “I belong to Senior Sergeant Solomona.” This photograph was not produced at the hearing, but was so described by several witnesses. I refer to it as the “I belong photograph”.

[23] There was a second photograph produced by Inspector Brady, a witness called by the prosecution. It was a photograph of a man, presumably a police officer, dressed in black with a balaclava over his head and holding an axe and a machete. Beside him is a sign reading “RIP to Section IV.” I refer to this as “the machete photograph”.

[24] The Inspector said that this was located in Senior Sergeant Solomona’s desk. The relevance to the prosecution was the identification by the Inspector in the photograph of two wooden shafted objects that in his view were the shaft handles of kilikiti bats. The complainant Bradley Death had given evidence that, when at the police station, Senior Sergeant Solomona had assaulted him with a kilikiti bat, conduct that was denied by the Senior Sergeant. The machete photograph is clearly intended to refer to the decision to disband the Emergency Response Group.

[25] The following was the evidence given at the hearing of the possibility of a certain police culture relating to photographs of the “I belong ” kind.

[26] Constable Westerlund described the photograph and the circumstances in which it was used. In re-examination he said at page 50 of the transcript:

“Did you see anything like this photograph before? – Yeah. I have seen things like that before.

With similar wording? – No. But a similar sort of theme.”

[27] Sergeant Nelson also described the photograph and its use at the police station. In cross-examination he said at page 178 of the transcript:

“Have you seen similar photographs to this one around other police stations just as a joke? – yes, on occasions.

Not naming this Senior Sergeant but naming other officers? – Yes, that’s correct”

[28] In re-examination at page 179 is the following passage:

“You were asked by Mr Haigh on behalf of the defendant, I understood him to ask you whether you had seen other similar photographs around other police stations and I think he used the words as a joke. Do you recall being asked about that? – yes.

And you replied – yes.

Could you tell us please what is the joke about these type of photographs? – The humour would not be understood by non police officers.

Perhaps as a police officer you could explain to us the humour? – I don't know if I can. I don't think I could explain the humour in two sentences.

I am not asking you to explain the humour in two sentences, explain it as you wish? – It is a matter of police culture you get accustomed to as your time in the police increases and I wouldn't expect a non police officer to understand that sort of humour."

[29] Senior Sergeant Solomona gave evidence. About the I belong photograph, he said that, on the evening when the person in the photograph had been at the police station but after he had left, he was shown the photograph by Constable Westerlund. He was told the photograph had been found on the muster room table. He did not take it. He said that he reprimanded the Constable and asked that the Constable speak to the other officers to the effect that this was inappropriate behaviour. He took possession of the photograph and put it in his notebook. A few days later the notebook with the photograph went missing. He subsequently found the notebook in his locker but the photograph was gone.

[30] About the machete photograph, Senior Sergeant Solomona said that he had seen it some two years before, attached to the outside of his locker. He did not know who took it or who put it there. He thought the other constables were having a joke about him. He said that "I don't see it so much as a sense of humour but more the coping mechanism that a lot of young cops have, due to the relentless stress and pressure they face every day." In cross-examination, he said that he did not agree with Sergeant Nelson that the photograph was a joke. He thought it was more a coping mechanism. He said it was not acceptable and he did not agree with the action of whoever took it. He did not think it sufficiently serious to take it further.

[31] This is the extent of the evidence given at the hearing relating to the possibility of the existence of the kind of police culture to which the judge referred.

Counties–Manukau Police District

The Nature of the District

[32] Attached as Appendix 1 is a map showing the Counties–Manukau District and the principal urban areas.

[33] The authorised police establishment for the District is 642.9. As at May 2005 the sworn establishment was 626.5, the non-sworn establishment was 131.63, actual was 134.7 The total establishment was 774.53, with an actual of 761.23.

[34] The present District Commander, Superintendent Shortland, said that the district is a challenging one, there are 164 different ethnicities with a wide range of socio economic groups. One consequence of the significant lower socio economic group is that they are used to being dependent on others to sort their problems out and for that reason, they tend to call on the police more than would be the case in districts with fewer in that group. This puts a greater pressure on the police in the district, compared to other districts.

[35] The District Commander provided further information about the District, obtained from the Manukau City publication “2004 The Changing Face of Manukau” and Ministry of Education statistics:

- ❖ It has a population of around 435,000 of whom 48% are under 30 years of age.
- ❖ Of the total population, 22% are Pacific Island people and 16.5% are Maori.
- ❖ According to the last census, 31.6% of incomes were \$20,000 or less
- ❖ 75,000 people aged 15 and above rely on state aid as their principal income.
- ❖ Unemployment is consistently 10% above the national average.

- ❖ 51% of nearly 60,000 students in Manukau schools were identified as Maori or Pacific Island. In 2002, 33% of Pacific Island and the same percentage of Maori school leavers left school with almost no qualifications.
- ❖ 22.8% of the schools in the District are decile 1 or 2, compared with the national average of 10.2%.

[36] This information is consistent with deprivation data supplied by the Department of Public Health. These statistics show that Manakau has a marked proportion of its population living in areas of socio-economic disadvantage. The same review found that Manakau residents had the lowest perception of safety compared to other cities. Counties–Manukau has the second highest rate of burglary compared to other police districts and a high number of juvenile offenders, which may influence perceptions of safety.

[37] All of these factors suggest a higher proportion of underprivileged persons than are likely to be found in other police districts. This may lead to a sense of frustration and deprivation amongst some of those affected, which in turn can lead to an increased level of lawlessness, including violence. This more difficult climate will result in greater demands being placed on the police than will be the case in Districts with fewer of these characteristics.

Counties–Manukau District Police Data

[38] The average length of service in the district is 8 years which is the lowest in the country. For example, Canterbury is 15 years. The consequence is, with the large number of junior members and with junior supervisors, mistakes can be made which tend to cause longer to be spent on the job than would otherwise be the case. On the other hand, the shorter service staff tends to produce a higher degree of enthusiasm.

[39] The district has higher than average call-outs. For example, in March 2005, the district had 1,671 priority 1 events. This compares with 1,283 in North Shore/Waitakere, 1,184 in Auckland City, 1007 in Wellington and well below 1,000 in all other districts. No doubt as a consequence of this high rate, the district in

March 2005 achieved a response within the target time of 10 minutes in urban areas of only 56%, the lowest of all districts. I attach as Appendix 2 a graph showing the most serious offences reported in the five largest police districts.

[40] Mr Reg McLean from Professional Standards, Office of the Commissioner has made an analysis of complaints and complainants over three years in the Counties–Manukau District and compared these with the national figures. The results are in the following table:

Complainants and Complaints			
	2002	2003	2004
Complainants	152	176 (15%>)	222 (26%>)
Complaints	194	228 (17.5%)	271 (18.8%>)
Complaints as a % of National Total	7% (2775)	8.6% (2648) (4.6%<)	10.8% (2507) (5.3%<)

[41] Superintendent Cox, who was the District Commander during part of this period, thinks the increase may be due to a change in the method of reporting complaints in the latter part of the period.

[42] The figures relate to complaints made, not those upheld. Subject to Superintendent Cox's comment, they show that over the surveyed period there has been a significant increase in complainants/complaints that goes against the national trend of reduction in complaints. Further analysis shows that the principal types of complaints are generally consistent with national trends, although it also shows that the number of complaints in the following categories have been consistently above the national average; Attitude/Language, Disgraceful Behaviour, Treatment of CYPs, Use of Force-Other and O/C (pepper) Spray. There have also been periods where complaints of Assault and Unlawful Search have exceeded the national average.

[43] The complaints resulted in the following numbers of charges brought against police officers by prosecutions in court or proceedings before the Police Disciplinary Tribunal:

2000	10
2001	4
2002	4
2003	1
2004	11

[44] Some of these resulted in convictions and penalties imposed, some were dismissed and some are ongoing. The increase in 2004 mirrored what was occurring at a national level.

Violence in the Counties–Manukau Police District

[45] During interviews, the view was frequently expressed that Counties-Manukau was a more violent place to police and there was a corresponding police response to that threat. The assaults / obstruct police offence data collated for the three Metro Auckland Districts were analysed to see whether this view was justified. The following is a summary of the results of the analysis:

- i. Counties-Manukau has the least total assaults against its officers of the three districts and the difference is significant numerically.
- ii. Counties-Manukau has considerably less Summary Offences type assaults against its police officers. These are presumed to be minor level type assaults (pushing, shoving, spitting, grabbing, wrestling, light punch).
- iii. Counties-Manukau has considerably more severe assaults against its police officers. These include Crimes Act assaults and assaults with weapons. These have consistently reduced from year to year but still remained higher than the other two districts.
- iv. Counties-Manukau has the fewest cases of obstructing its police officers.

[46] The following are the number of charges for severe assaults, including assaults with weapons, on police officers laid under the Crimes Act:

	2002	2003	2004
Auckland City and Motorways	7	3	6
Counties–Manukau	33	23	16

[47] I conclude from this analysis that, because of the higher number of severe assaults against police officers, there is, at least in that respect, some justification for the view expressed.

The Emergency Response Group

[48] The ER Group commenced to operate in the Counties–Manukau District on 1 December 1997. There were 6 sections within the group. Each section consisted of a Senior Sergeant, 2 Sergeants and 12-14 Constables. Senior Sergeant Solomona was for a time the officer in charge of section IV.

[49] The concept was that the ER Group and the sections within it responded to emergencies, that is the Priority 1 jobs, such as family violence, grievous bodily harm or other actual or potentially violent situations such as burglars disturbed on the job, and other events that called for swift effective action. They were not involved in such matters such as community relations, historical complaints and similar areas of policing. Having intervened to curb any immediate emergency, the most necessary procedures were gone through and a file opened. The file was then normally passed on to someone else, particularly if there were other calls on the Group. The problem with this method of policing was that, the section having dealt with the emergency, the matter was then handed over to local station staff. This tended to result in an A team and a B team, where the A team did the exciting work, and the B team tidied up after them.

[50] After a 6 month review of the way the district was operating, in 2003 the decision was taken to end the ER Group and return to the Area Policing Model. The change occurred on 31 March 2004. Superintendent Cox, the Counties–Manukau District commander at the time, expressed the opinion that the Group served its purpose at the time by focusing on Priority 1 jobs, but some of the integration

difficulties ultimately justified terminating the system, and there were also changes in the environment and policing style that lead to this decision.

The Team Policing Unit

[51] This unit was set up in 1997, at the same time and as part of the ER Group. It normally consisted of one Sergeant and eight officers. The purpose of the unit was to police licensed premises and be trained to deal with mass disorder from large unruly parties to riots.

[52] Until March 2004, when the ER Group was disbanded, the Sergeant in charge of the Team Policing Unit reported to the ER Inspector. After that time, the Sergeant reported to the Operations Manager, Counties–Manukau District.

The Enquiry Method

[53] The method adopted by the enquiry team involved five principal phases. The following is a summary of the activities of each phase:

Investigative Phase

Preparatory phase included obtaining information around the conviction of Senior Sergeant Solomona, general reference material and some familiarisation with operations in the Counties-Manukau Police District.

Publicity phase relied on the high media profile of the inquiry, internal communication and a range of contact points to seek and gather relevant information from any interested party. This can be considered as part of the canvass phase below except that the responses received were unsolicited.

Canvass Phase

Canvass phase relied on directly contacting a wide range of groups to gather information. This was done by writing to them and requesting the completion of a questionnaire. Any reported information was then followed up by contacting the respondent directly. The following groups were selected for contact -

- a. 73 external agencies and communities that have regular contact with the police in Counties-Manukau;
- b. A review of Counties-Manukau completed prosecutions randomly to identify 120 prisoners who had been arrested in the district and canvass them.
- c. 55 former police officers from Counties-Manukau whether they have now exited the police completely or are working in a different district;
- d. 11 Police Association or Police Officer's Guild advocates who represent staff in the Counties-Manukau Police District;
- e. 182 currently serving Counties-Manukau officers including a large random selection of sworn and non sworn staff, and all officers formerly from the UK. As well as this, 24 key personnel including senior managers and those involved in the Senior Sergeant Solomona hearing were requested to attend an interview in a format similar to the questionnaire. Most complied with this request with the exception of Senior Sergeant Solomona, who declined to be interviewed. Constable Westerlund and Sergeant Nelson also declined to be interviewed but responded to written questions;
- f. 62 visiting staff from Operation Cavalry who relieved in the district to assist when staff numbers were low;
- g. 19 senior managers from the Counties-Manukau Police District, regarded as key personnel, were interviewed.

Complaints Review Phase

Complaints review phase included analysis of hard data held in the Professional Standards database in Wellington and an audit of 30 randomly selected professional standard files involving acts consistent with the terms of reference.

Public survey phase involved the analysis of regularly completed public satisfaction surveys to identify any risks or trends.

Context Phase

Establishing the policing context that Counties-Manukau operates in. This was done by obtaining data that describes the working environment of the district and compares it with other metropolitan districts. Areas of focus were -

- structure and staff;
- level of recorded demand for service and;
- level of recorded use of force.

Photographic Phase

To examine the evidence of the taking of photographs to determine whether there was a practice of photographing prisoners in demeaning poses and if so, its extent.

[54] I will set out the result of the enquiry team's investigations into each of these phases.

Investigative Phase

Preparatory Phase

[55] I have set out, in the preceding sections of this report, details of the conviction of Senior Sergeant Solomona, and information relating to the nature of the Counties-Manukau Police District.

Publicity Phase

[56] The initiation of Operation Reason was accompanied by a large amount of media attention. Specific contact points for people to respond to the inquiry were put into place. Operation Reason was publicised with a mailing address, 0800 number and e-mail address. Two media releases at the start and end of March to highlight the enquiry were also issued. Any correspondence addressed to a station and mentioning the inquiry was provided to the enquiry team.

[57] Internal publicity was also generated by publication on the electronic 'Bully Board'. This is where all notices are regularly posted which all staff can access.

[58] In total, 52 responses were received from members of the public and members of the . Most of these were received by early April coinciding with the high media attention. Seven responses were received after 17 April 2005. Fifteen of the responses indicated a positive culture in Counties-Manukau Police, with some of

these also noting the highly demanding environment in which officers work. Twenty of the other responses were not related to the terms of reference.

Analysis of Responses

[59] Eight responses involved allegations of acts relevant to the terms of reference. Six of these were already reported to the Police Complaints Authority (PCA). Two responses were new allegations.

[60] Both of the responses not previously reported to the PCA involve allegations of common assault by officers against people in custody. One alleged an assault on a prisoner in the Pukekohe District Court cells in November 2004. It remains unsubstantiated.

[61] Even if substantiated, this response is unlikely to provide evidence of a violent culture. The officer identified has no history of other complaints and allegedly acted alone. The complainant has been identified, but has declined to make a complaint.

[62] The second is a rare example where a complaint was not actioned at all when it was reported to an NCO. The responder alleges he attempted to report the assault to the 'station sergeant' and was told he could do that in the Papakura station in the morning. This response has been referred to the PCA and is with Professional Standards for follow-up inquiries. If substantiated, it appears to be a further example restricted to officers involved from Section IV of the now disbanded ER Group when it was under the command of Senior Sergeant Solomona. He was not on duty on the night of the alleged incident.

[63] The enquiry team has considered the six responses that were referred to the PCA. It concludes not one of these six response provide any evidence of a culture that condones or encourages violence. Rather the opposite is suggested by the formal actions taken by the Counties-Manukau investigators and management.

[64] There are some limited commonalities relating to the presence of NCOs. These suggest possible inappropriate practices by a few NCOs who have served in

the ER. The presence of NCOs is reported in five of the responses. The NCOs identified are restricted to a small group within the ER Group. The enquiry team noted that officers with a record of complaints have been promoted to fill long term vacancies or requested to relieve at a higher rank, that these NCOs often have very narrow career paths and that recently promoted staff are quickly relieving in the next higher rank.

Actions to Mitigate the Problems

[65] Superintendent Cox, the former District Commander, was aware of the issues referred to in [64] and took actions to mitigate them. In his statement to the enquiry, he referred to discussions he had with Senior Sergeant Solomona as a consequence of the complaints received.

[66] More recently steps to improve policing in the District have been taken. These are described in [170] and following.

Conclusion on Investigative Phase

[67] No evidence was found in the investigative phase that supports a culture of violence or inappropriate treatment in the Counties-Manukau Police District. The allegations made are not evidence of a culture. Rather they are indicative of some localised issues around the now disbanded ER. There is some evidence of inappropriate conduct by officers who have a history of complaints, particularly if promoted to or relieving in the rank above. The District is aware of this risk and has implemented processes to manage it, referred to in [170] and following.

Canvass Phase

External Agencies

[68] The external agencies approached were government departments, community groups, such as Victim Support, Neighbourhood Support, Maori and Pacific Island organisations and similar, local government, hospitals, churches, law firms and others that the enquiry team considered regularly worked with in Counties-Manukau

[69] 73 external agencies were invited to advise the enquiry team of any inappropriate conduct or acts of violence. 44 agencies being 60% responded. Most of the responses from the agencies were positive, unremarkable or outside the terms of reference. Four responses flagged a negative culture but the respondents could not provide specifics. Only two responses provide specific acts that are within the terms of reference.

[70] One was an allegation of assault of the driver of a stolen car, who was already handcuffed. This complaint is already with the PCA. It typifies the type of acts that suggest that some in Counties-Manukau are overly aggressive, a suggestion reported to the enquiry team by a minority of respondents.

[71] The other significant response was from a law firm in South Auckland. The lawyers in the firm who had regular dealings with the did not believe there was any distinctive culture in the district and that, in terms of working with individual officers, the level of satisfaction was recorded as very good. The only lack of satisfaction they raised related to their perception of a dismissive attitude towards recording domestic violence and family dispute type complaints. They identified a lack of belief by the officers in the complaint as the problem. This complaint was not within the terms of reference. But it is indicative of the highly demanding nature of the district. Remedial measures have been taken.

Prisoners

[72] A review of prosecution data in the Counties-Manukau Police District was completed randomly to identify 120 people who were previously prisoners in the district during 2003 and 2004. Only prisoners who had completed their sentences were selected. Individual letters outlining the purpose of the inquiry and seeking feedback on a questionnaire form were mailed out to the 120 former prisoners identified.

[73] Twelve of the letters were returned undelivered. Only sixteen former prisoners responded. Though the response rate was very low at 15%, the responses were consistent with the other phases.

[74] Nothing of significance was revealed during this phase. Nearly half (7) of the responses considered the culture appropriate and two noted the difficult environment work in. Four responses considered the culture inappropriate but did not provide specifics or were outside the terms of reference.

Former Staff

[75] The inquiry team identified 204 former Counties-Manukau officers who had left the district since 1 July 2003. A sampling of 20% of this group was made, totaling 52 former officers. They were contacted by letter that outlined the purpose of the inquiry and sought feedback from them. A response guideline was also included to structure the response to the terms of reference.

[76] Twenty seven former staff responded. This is a 49% response rate. One response from the external agencies phase is also included in this phase as it related to experiences of the respondent when serving as a officer.

[77] The following is a summary of the responses:

- (i) Most of the responses believed the culture was appropriate. Many noted the highly demanding policing environment they had worked in. This perception of a highly demanding environment was widespread across respondents in all phases and was nearly always expressed during the enquiry team's interviews.
- (ii) A limited number of respondents note an impression of over-aggressiveness typified by minor assaults during the arrest process.
- (iii) One former officer referred to inappropriate treatment of the prisoner in a motor vehicle by unjustified pepper spraying. Although this officer worked in Counties-Manukau for four months in an ER team, he did not witness any other inappropriate conduct, which suggests that any inappropriate conduct was not widespread.

(iv) Another former officer served in Counties-Manukau for ten years. She claimed it was common knowledge that officers used excessive force. The only specific incident she recalled was of a prisoner being “dragged by their hair across a road into the gutter.” She did not report this incident, an example of the “blue code of silence” I refer to in [11]. However, informally she condemned the incident to those concerned, and considers that it was recognised that she “would not put up with this kind of behaviour.”

[78] The enquiry team concluded from the responses of former staff that there was limited evidence of minor assaults during the arrest process and that at times improper behaviour was dealt with informally rather than reported, in accordance with the ‘blue code of silence’. The evidence of minor assaults is limited and may be no more than in other policing jurisdictions. The responses did not indicate that the assaults were of a degree in seriousness and extent that could amount to a culture of violence or inappropriate conduct.

Police Association

[79] The inquiry team identified eleven advocates of the Police Association and Police Officers Guild who worked within Auckland Metropolitan boundaries. All were contacted by way of letter. This outlined the purpose of the inquiry and sought feedback from them. A response guideline was also included to structure the response to the terms of reference.

[80] Nine responded and the responses were consistent with the majority of responses from the other phases. Little of any direct significance to the inquiry was revealed.

Current Staff

[81] A total of 612 officers currently serving in Counties-Manukau were identified by name and work location. A 20% random sampling of these staff was taken for a general canvass.

[82] On 8 April 2005 letters that outlined the purpose of the inquiry were sent to 127 randomly selected current staff. They sought feedback from them as individuals. A response guideline was also sent with the letter to ensure the replies addressed the terms of reference. 81 responses were received back. This is a 64% response rate.

[83] The majority of responses claimed a healthy and necessary culture (53). Half of those (26) noted the highly demanding policing environment in which they worked.

[84] Two responses outlined specific acts that fall within the terms of reference. None were previously reported to the PCA and still lack sufficient detail to do so at this stage. The remaining responses deny any inappropriate behaviour but were otherwise unremarkable or outside the terms of reference.

[85] A current serving officer described an event that occurred two years ago when a twelve-year-old boy complained he had been assaulted by two officers following a burglary incident. The enquiry team interviewed the boy. He said that after he had been stopped by he "got smart to them" and was put into a car. One of the grabbed the back of his T-shirt and pulled it back choking him. He could not recall who the officers were.

[86] The same officer was aware of an incident where a youth attending a sports day reported that another officer there had assaulted him previously. No complainant was identified and no complaint is pending.

[87] The other responses related to information around photographs that could be inappropriate. These are described at [141] and following.

Current Staff (former UK)

[88] The enquiry team contacted all officers in Counties-Manukau Police District who were previously from the United Kingdom. This was on the basis that officers formerly from the UK would be more likely to question existing practices due to

their experience in a different jurisdiction. They are also more senior than the majority of officers who first come to work in the district.

[89] Thirty one officers formerly from the UK were contacted by letter. The letters outlined the purpose of the inquiry and sought feedback from them as individuals. A response guideline was also sent with the letter to ensure the replies addressed the terms of reference. Fourteen responses were received back. This is a 45% response rate.

[90] Half the responses claimed a healthy and necessary culture (7). More than half of those again (4) noted the highly demanding policing environment they work in Counties-Manukau .

[91] Three respondents had an impression the Counties-Manukau Police were overly aggressive. All three were able to provide at least one specific example. These were similar to some of the other responses around alleged minor assaults by patrol staff against prisoners in custody or during arrest.

[92] One respondent described an occasion in August 2003 when he was interviewing a prisoner at the Wiri station. Another officer came to the interview room and delivered a single punch to the prisoner. The respondent warned the officer that he would be arrested if this happened again. He did not report the matter formally. He cannot now identify the officer. He did identify the prisoner. When approached by the enquiry team, the prisoner, who is currently in prison, refused to make a complaint. The officer was from Senior Sergeant Solomona's section on the ER. This respondent was also very critical of a briefing from Senior Sergeant Solomona that he considered condoned the use of violence.

[93] Another respondent provided an example of a number of officers acting too aggressively when apprehending an individual at a service station. This occurred in January 2005 when the individual threatened to ignite a petrol pump at the service station. This event is recorded on a CCTV, which I have viewed.

[94] It is unnecessary for the purposes of this report to describe the events in detail. There was an unnecessarily aggressive approach to the individual concerned.

Two dogs were involved. The petrol supply was turned off so there was no immediate threat. With up to five officers present, there should have been no need for kicks, punches and the use of OC spray. The offender was found to have to puncture wounds on his middle left leg (presumably caused by the dogs) and some abrasion to his head, arms and legs. There were two NCOs present. The more senior and the controlling officer is an officer with a history of complaints recorded against him. He also worked in the ER group.

[95] The third UK respondent reported an occasion when a prisoner was assaulted after being apprehended and handcuffed following a pursuit of a stolen car driven by the prisoner on 7 September 2003. The alleged assault involved a slap and a punch. The respondent pulled the prisoner away from the officer and the assault ceased. A complaint was obtained from the prisoner, and the suspect officer identified. This officer has not previously been the subject of complaint. This matter is now with Professional Standards for investigation.

[96] The responses from the former UK officers are consistent with the responses from the other phases. In general the respondents agreed the culture was positive and many note the demanding environment in which they are working. They provide evidence of unnecessary aggressiveness by patrol officers involving minor assaults. None of these occasions were reported, another example of the “blue code of silence.” The incidents relate to ER staff or to senior NCOs with a history of complaints.

Current Staff (non sworn)

[97] The enquiry team contacted all non sworn officers who worked in watch houses in Counties-Manukau because the terms of reference had a focus on prisoners and suspects. Twenty four non sworn staff currently serving in Counties-Manukau Police District were contacted by letter. The letters outlined the purpose of the inquiry and sought a response from each of those contacted. A response guideline was also sent with the letter to ensure the replies addressed the terms of reference. Eighteen responses were received back. This is a 75% response rate.

[98] No improper acts within the terms of reference were identified. Some comments did indicate knowledge of a negative culture but, when followed up, these related to “war stories” and the like. No specifics could be provided.

[99] Most of the responses were unremarkable, with seven agreeing there was an appropriate culture. Three noted the highly demanding environment. One response from a respondent who had worked for the for nearly five years described a culture where there was “a black sense of humour and a sort of cynical toughness, where people look upon other staff as a member of the same disadvantaged family working together to do the best they can, with what they have.”

[100] Another respondent said she believed the on the whole bend over backwards to show respect to prisoners and the public. have a very hard job to do and working in South Auckland has more problems than probably working in any other place.

[101] The responses from non-sworn staff did not differ greatly from the other phases, although no identifiable incidents were revealed. The non-sworn staff understand the are working in a demanding environment but considered that the culture is appropriate. However, at times the odd individual will act inappropriately. There was no evidence from these respondents that violence or other inappropriate treatment is encouraged or condoned.

Visiting Staff – Operation Cavalry

[102] Operation Cavalry was an operation deploying staff from around the country to assist with the backlog of work and a high number of vacancies in Counties-Manukau. A canvass of these staff was considered worthwhile on the basis that they would be more likely to question existing practices due to their experience in a different district and that they were more senior than the majority of officers who first come to work in the district.

[103] Sixty four officers who had assisted with Operation Cavalry were contacted by letter. These outlined the purpose of the inquiry and sought feedback from them as individuals. A response guideline was also sent with the letter to ensure the

replies addressed the terms of reference. Forty seven responses were received back. This is a 76% response rate.

[104] The majority (26) of the responses from this phase agreed the culture was appropriate. Ten of these noted the highly demanding environment of policing in Counties-Manukau . Only one response identified an act that was within the terms of reference. The remaining responses were outside the terms of reference or unremarkable.

[105] This respondent served in Counties-Manukau for ten weeks around November 2002. The occasion he described involved the arrest of a male in the foyer of the Papakura watch house. This person had been drinking but was not intoxicated. He was arrested as he was leaving the station. The constable put an arm around the man's neck and dragged him back into the foyer causing him to fall to the floor. The sergeant arrived, jumped the counter and was seen to kick the man. This example is a minor assault on an unidentified person during an arrest that did not appear justified. The assault was not prolonged or severe.

[106] The enquiry team has not been unable to identify positively the constable, the sergeant or the complainant. However, the enquiry team believes that they know the identity of the sergeant and the constable, both of whom have had complaints previously recorded against them, although the complaints were not upheld.

[107] In general the respondents agreed the culture at Counties-Manukau was positive and many noted the demanding environment in which staff work compared to their own districts. This is significant as these officers were visitors to the district. If an inappropriate culture did exist, they would not have been easily influenced by it and would be more inclined to report it following their departure.

Key Personnel Interviews

[108] As part of the canvass phase it was decided to interview key personnel in the Counties-Manukau Police District. Nineteen senior managers were identified. I interviewed the present and former commanders of the District. The enquiry team interviewed the others.

[109] In general the interviews revealed similar impressions as the rest of the canvass phase. Most senior managers agreed there were some isolated officers who had behaved improperly, but they believed the culture was appropriate and there was no general pattern of misbehaviour in the Counties-Manukau Police District.

[110] All the senior managers commented on the pressures of policing in Counties-Manukau. They noted the higher than average demand of Priority 1 calls and also the high level of violence encountered in the community. Those who had previous experience in other districts or who had worked in units that dealt with a range of districts such as the Communications Centre, noted that Counties-Manukau had the most demanding environment. One senior manager said:

“There is an aggressiveness in the community that stands out from Auckland City District, even behaviours on the road and certainly around public places. The policing environment causes officers to have a heightened degree of awareness of their personal safety requirements, where they could become quickly the targets of violence and the use of weapons. It is inevitable ... the focus is about delivering a response that sets out very early to establish what the risks are as opposed to a more public relations focused approach. In other words, there is the potential for a more aggressive style taken here than in Auckland City.”

[111] Another senior manager, the Area Commander, Counties-Manukau East, noted:

“... Counties-Manukau District as a whole is severely under resourced compared to the P1 events other districts nationally have to deal with. This creates examples that I have seen of staff taking shortcuts to respond to the pressures and demands of the high priority events that are occurring. It is not unusual to get calls at home to be advised that there are P1 events queued up but no staff to attend and I have to go out onto the street and find staff to alleviate the peak. I will reassign traffic units and other groups that will be working on proactive operations, events or investigations.”

[112] Another senior manager referred to the staffing levels:

“One needs to remember that the Counties-Manukau Police District is d by relatively junior if not virtually brand new officers from the Police College and that on its own is unique compared with seniority in other districts especially in the area of frontline policing. Another area of importance is the actual staffing numbers are often under the

authorised strength and more importantly over the years, a number of key supervisory positions from the rank of Sergeant and Senior Sergeant have been filled medium to long term by persons filling those rolls [sic] in an acting capacity which is disappointing and unsatisfactory. This is a problem for the administration to grapple with.”

[113] Information gathered from the interviews of senior managers is consistent with information from the other canvass phases. There is no evidence of a culture that encourages or condones violence or inappropriate treatment. There is an acceptance that some individuals including NCOs will act improperly at times but no manager accepts there is any pattern of misconduct, let alone a culture.

[114] There was also a common theme underlying issues around Professional Standards. This included a highly demanding policing environment with some of the most violent type of calls for service in the country, exacerbated by having the most inexperienced officers and NCOs. At times this is combined with high levels of vacancies. It was also noted that an impression of aggressiveness might develop as exposure to high levels of violence puts a stronger focus on self preservation rather than community relations.

Conclusion on the canvass phase

[115] The findings from the canvass review are generally consistent with findings from the other phases. There is no evidence of a culture that condones or encourages violence or inappropriate treatment. No evidence was found of the practice of taking demeaning photographs. The culture was considered appropriate. There was some evidence that some officers had behaved improperly by the use of excessive force. There was emphasis on the demanding nature of policing in the Counties-Manukau Police district.

Complaints Review Phase

[116] This phase of the investigation reviewed complaints that had already been reported to the PCA. Three types of analysis were completed:

[1] Complaints data from the Professional Standards database at Office of the Commissioner (OoC) was reviewed at an aggregate level. This was to determine if complaints recorded against officers in Counties-Manukau were different to national trends. Mr Reg McLean, the analyst at OoC undertook this task.

[2] The enquiry team undertook a review of thirty randomly selected PCA files from 2003 and 2004. The sample files were only from Counties-Manukau Police District and only complaints that were acts within the terms of reference. The files were assessed against a set criteria looking for any indicators of an inappropriate culture.

[3] The enquiry team reviewed the surveys of public satisfaction to assess the level of public satisfaction with the police in Counties-Manukau compared to other police districts.

Aggregate Level Complaints

[117] The review of the aggregate data from Professional Standards revealed some differences from other districts but nothing that was evidence of a culture. Counties-Manukau police complaints have increased over the last few years from 152 complainants to 222. This is against the national trend. However, these increases were not all in the key areas relating to the terms of reference. The major increases appeared to be around failure to investigate and inadequate service that are outside the terms of reference.

[118] In general, the top five types of complaints are consistent with national trends. Further, the actual complaints that result in disciplinary action, set out at [43], are very small, the highest being 12 in 2004 and lowest 1 in 2003.

[119] Disgraceful behaviour and attitude complaints have shown increases in Counties-Manukau and are above the national average. There are between 28 and 39 of these complaints in a year. Assault and use of force complaints are also generally above national averages but have not shown an increasing pattern over the

last three years. There was a reductions in 2004. There are between 31 and 46 of these types of complaints a year.

[120] Caution is required with these numbers. Statistically, they are small. However, other evidence does support the complaints data. Inspectors Brady and Adams both commented that Counties-Manukau has a higher rate of complaints of assault and excessive use of force than comparable districts such as Auckland and North Shore Waitakere.

[121] The other complaint codes falling within the terms of reference have such small numbers recorded against them that any analysis is impossible.

[122] An attempt was made to analyse officers with a history of complaints. A list of staff in the Counties-Manukau Police District with more than five complaints was prepared and analysed. This analysis was inconclusive, other than showing that most of the complaints against these officers were for assault, attitude and language. The limited nature of the data stored in the Professional Standards data base meant that a more detailed analysis could not be made.

Randomly Selected PCA Files

[123] The enquiry team also undertook a review of thirty randomly selected PCA files from 2003 and 2004. The sample files were from Counties-Manukau Police District and were complaints that were acts within the terms of reference. The files were assessed against a set criteria prepared on a spreadsheet looking for any indicators of an inappropriate culture. Two of the 30 files had upheld complaints.

[124] No evidence was found of complaints around the taking of demeaning photographs. If this were a widespread practice, some examples would be expected.

[125] There was a high presence in the complaints of NCOs. Nine NCOs (30%) were the subject of complaints. Two were Senior Sergeants. All but two of these NCOs have high complaint histories. Each has five or more allegations recorded against them. On average each NCO had eight complaints recorded against them.

Eight was both the mean and median. The NCO with the highest number of complaints had twenty and has now left the police.

Public Survey Analysis

[126] Surveys of public satisfaction are a regular management and performance tool undertaken by police. Results from the previous public satisfaction surveys conducted up to and including 1 April 2004 were obtained from the Organisational Performance Unit (OPU), Office of the Commissioner. No significant differences or trends were revealed.

[127] Counties-Manukau has a lower than average satisfaction rating of the 12 districts but not the lowest. This has been a trend over a number of years and is reasonably static. In 2004, 71% of people surveyed were quoted as having "full / quite a lot of trust and confidence" in the Counties-Manukau police.

Conclusions on the Complaints Review Phase

[128] The findings from the complaints review are generally consistent with findings from the other phases. There is no evidence of a culture that condones or encourages violence or inappropriate treatment. No evidence was found of the practice of taking demeaning photographs.

[129] Two allegations included circumstances that suggest a practice of hosing a cell out with water to make it wet and cold. Also there appears to have been a practice where the detoxification cell at Otahuhu was regularly hosed out. Although it was not suggested that the prisoners were hosed, some considered it was done as it "... tends to sober people up faster and they can kick them out the door sooner." This is a practice that was discovered by Senior Sergeant McPherson and stopped prior to the inquiry.

[130] There is an impression from the recorded complaints of a higher level of aggressiveness in this district than in comparable districts. Further, this impression of aggressiveness is most apparent in officers who have a history of complaints. Complaints against NCOs featured highly.

Context Phase

Workloads, Violence, Offending

[131] Inquiries were completed to establish the policing context in which Counties-Manukau police operate. This was done to test a number of assertions made by respondents and people the enquiry team interviewed. They claimed the district was a very challenging one to work in due to high workloads, more violence, inexperienced staff and high vacancies. The enquiry team also tested some limited responses that they had alleging Counties-Manukau officers were more aggressive in the use of force and that dogs were deployed on offenders more often, although it should be noted that dog section staff are not Counties-Manukau officers.

[132] The information gathered supports these claims. The Counties-Manukau Police District has a higher level of P1 jobs to attend and these jobs have a higher level of violence than in other districts. Three different analysts from two different districts and Office of the Commissioner interrogated the police information systems. Each provided reports with comparative data of crime types and/or calls for service. Each supported the contention.

[133] Despite a 18.5% fall in violent offending since 2000, Counties-Manukau has more serious crime events in absolute terms, by population and by severity i.e. as a percentage of all events logged. The differences between Counties-Manukau and other metropolitan centres are large and statistically significant. This is illustrated in Appendix 2.

[134] Over a four year period from 2000 to 2004, Counties-Manukau had 2000 more serious crime events than the next highest district, Wellington. Serious crime events include homicide, kidnapping, robbery, grievous assaults, serious assaults, rapes and sexual attacks.

[135] The difference is most likely attributed to the fact that Counties-Manukau suffers greater socio-economic disadvantage. I refer to this aspect in more detail in [35] and following. It has more people living in significantly deprived areas

compared to other major cities in New Zealand. When the crime figures are broken down to these areas within Counties-Manukau, most of the violence is within the poorest areas and the least within the wealthiest areas.

[136] Of the major cities in New Zealand, residents in Counties-Manukau feel the least safe according to citizen surveys in 2000. The police officers may also feel this higher degree of risk. On average over the last three years, police in Counties-Manukau report a serious assault against them thirty two times in a year. By comparison, in North Shore Waitakere the average is less than half at 12 times a year. Auckland City has an average of eight serious assaults on police in a year.

Staffing Features

[137] The assertion that the Counties-Manukau police have the most junior staff and carry a high number of vacancies was made by many people contacted by the enquiry team. Overall experience is the lowest in the country, with staff at constable rank averaging five years service compared to an average nationally of over eight years. Experience is also the lowest for sergeants and second lowest for senior sergeants.

[138] The district currently has 154 Probationary Constables who have less than two years service. On the basis of the numbers of recruits for each vacancy filled, Counties-Manukau has the highest rate. Counties-Manukau rarely has its vacancies filled with experienced staff, it generally relies on recruits directly from the Police College.

[139] In the past, Counties-Manukau Police District has carried a large number of vacancies. The enquiry team obtained data for March 2005 for officer (sworn) movements nationally. It shows that the vacancy situation has been addressed, and that the district is currently almost up to strength.

Conclusion on context phase

[140] The enquiry team's investigations support the claim that the Counties-Manukau Police District is a very challenging one to work in due to high workloads,

more violence in the community, less experienced staff and high vacancies. The investigations also indicate that Counties-Manukau officers use force more often, as reflected by OC Spray and Dog Section records. Frequently this extra use of force is justified. On some occasions it is not. This extra use of force is most likely a response to the more violent and riskier environment in which the officers are working.

Photographic Phase

The Stand-alone Computer

[141] In a further search for photographs that may be relevant to this enquiry, the New Zealand Police Electronic Crime Lab examined the hard drive of a stand-alone computer that had been based in the Crime Squad Office at Wiri, Counties-Manukau. There were many images on the hard drive, including a large number that had been deleted. The Crime Lab used a programme to recover the deletions.

[142] Approximately 120,000 images were recovered. Inspector Brady viewed approximately 20,400 of these. Senior Sergeant Burdett examined a further 12,000. Twelve images were located where people can be seen holding a sign in front of them. Because these images are recovered data from previously over-written material, they are of extremely poor quality.

[143] Senior Sergeant Burdett investigated whether these images were legitimate photographs or similar to the “I belong” photograph. I need not detail the extensive steps he and others took. It was finally established that the twelve images were a triplication of only four images. Further considerable efforts were taken enhance these four images, but they were not successful.

[144] Senior Sergeant Burdett and Inspector Peter Gibson, a former officer in charge of the Emergency Response Unit previously based at Wiri, together examined these four images. They reached the following conclusions:

- (i) Three of the four photographs were taken during daylight hours, as opposed to night time as described by Mr Death

- (ii) Two of the photographs are of youths
- (iii) Two of the photographs are of middle-aged people
- (iv) All appear to be holding a formal notice board rather than a piece of paper, as was described by Mr Death
- (v) None of the persons appear to be in any distressed state. One is smiling
- (vii) All are holding the sign rather than it being hung around their neck
- (viii) The writing on the board appears to be of a formal nature, possibly name & address, rather than a comment

[145] Further efforts were made by the Counties-Manukau CIB to identify the persons in the photographs, the persons responsible for downloading the photographs onto the hard drive and the reason for capturing the images. These further efforts were unsuccessful.

[146] The result of all of these investigations is that the four images appear to be legitimate. There is a further aspect. The inappropriate photographs that have been described, including the "I belong" photograph and those described in [158] were polaroid photographs. No photographs of this kind could have been found on the hard drive of the computer at the Wiri police station which supports the conclusion that the images on that computer were legitimate.

[147] The use of polaroid photographs is now less likely in the New Zealand police. Digital cameras have replaced these and pictures can be downloaded on the networked computers. This maintains an audit trail.

The "W" Photograph

[148] There is one photograph in existence that is similar to the "I belong" photograph. It is a photograph of an unidentified male wearing a neck brace and standing in an interview room. He is holding a handwritten sign that states "[W] ALWAYS SAYS 'NO' to VIOLENCE" (the 'W' photograph). The name of the officer referred to in the photograph is known, but in the interests of privacy, I do not reveal it.

[149] An extensive inquiry around this photograph was unable to identify the person or people involved with it. When interviewed on 21 July 2004, W denied any knowledge of the taking of the photograph or who was the person in it. He did admit to having seen it before "... on the desk of my Sergeant's office".

[150] W claimed to have seen it before he was promoted in February 2004. He understood the photograph as "... a joke, but I ignored it." He took no action on seeing the photograph even though he knew it was taken in an interview room in Wiri station.

[151] The 'W' photograph first came to notice officially when it was found by Inspector Keith Brady during a search of Senior Sergeant Solomona's desk in 2004 during the inquiry that led to the Solomona prosecution. Inspector Brady located a brown envelope with the writing ... "Attention Senior Sergeant SOLOMONA, please attach to [W's] CV re Panel Hearing on Friday".

[152] The 'panel hearing' was for the promotion of then Constable W. Senior Sergeant Solomona was on the panel to consider the promotion with two other Senior Sergeants. One Senior Sergeant was shown the photograph on the day of the panel but the other was not. This is thought to have occurred sometime around January 2004 as W was promoted on 6 February 2004.

[153] The Senior Sergeant who was shown the photograph is a friend of Senior Sergeant Solomona. He thought it was a case of someone making a joke at W's expense. The Senior Sergeant who was not shown the photograph would very likely have disapproved of it.

[154] I have examined the photograph. It is not possible to discern whether the young man holding the sign was disturbed at being photographed. He has his neck in a brace, suggesting he had suffered some trauma.

[155] The significance of the "W" photograph is that it is similar to the "I belong" photograph, that at least some officers knew that Senior Sergeant Solomona condoned the practice, and that he was comfortable showing it to at least one officer, but not another.

The KAM3 Photographs

[156] There were also two poloroid photographs that Inspector Brady found with the 'W' photograph. They are photographs of a sign in front of a vehicle registered as KAM3. One sign has the words "THE PROPERTY OF SECTION VI" handwritten on it. This vehicle is registered to a leasing company. It is currently leased to the wife of Tony Solomona and has been since January 2003.

[157] Apart from the association with Senior Sergeant Solomona, these photographs appear to be of limited if any significance.

Two or Three Photographs

[158] A constable who has worked in Counties-Manukau for four years at a number of different stations responded that he had seen "... the use of boards and cardboard signs hung around suspects/offenders necks". When interviewed he recalled seeing "... approximately two or three" pictures that were a "... photo of the suspect/offender with either a cardboard sign sort of held in front of them or hung around the neck ... it was basically saying "Property of" and things like "such and such's bitch".

[159] This constable only saw these photographs when working at Wiri station with the ER Group from about mid 2001 to the beginning of 2002. The officer has worked at a number of other stations and never seen these types of photographs since. He did not believe his senior officer in the ER Group knew about the photos because he would not have tolerated them.

Other Photographs

[160] Sergeant Nelson, who gave evidence in the Solomona prosecution referred to in [27], in a written response said that he saw such photographs in one station within the Counties-Manukau Police District. He did not provide any detail. He worked there between April 1998 to March 2004,

[161] Constable Westerlund, who also gave evidence in the Solomona prosecution referred to in [26], said in a written response that he, on three or four occasions, saw

such photographs within the Counties-Manukau Police District. He said this was when he first joined the police (which was in 1998) indicating that the practice may have occurred amongst a few officers up to seven years ago.

[162] Sergeant Nelson and Constable Westerlund declined to be interviewed in person. No further information on the nature of the photographs they say they saw is available.

The Machete Photograph

[163] I describe this photograph in [23] and following. It is consistent with a practice of taking photographs by police in the ER Group. It appears to relate to the closing down of the ER group. As an apparent attempt at humour between police officers, not involving any member of the public, it is of no further relevance to the enquiry.

Conclusion on the Photographic Phase

[164] There is nothing to show that the stand-alone computer photographs are relevant to the enquiry. The KAM3 photographs are also of limited relevance. The “W” photograph, the two or three similar photographs and the photographs described by Sergeant Nelson and Constable Westerlund are relevant, as they appear to be in the same category as the “I belong” photograph, establishing that at least to those extents, the latter was not an isolated incident. All may have been intended to be humorous in the eyes of the police officers involved, but are inappropriate as being, and obviously intended to be, demeaning to the persons photographed.

[165] At least six officers identified by the enquiry team have seen these photographs over a period of around seven years and have never taken any appropriate action over them. All are linked to the ER Group.

[166] There is no evidence of other ER officers knowing about the photographs other than those referred to above. All but one saw some humour in the photographs. The practice appears to have been limited to and around the ER Group and Wiri station.

[167] At least some officers who knew Senior Sergeant Solomona considered he condoned the practice of the photographs and found humour in them. This included the officer who sent him the “I belong” photograph in the first place. It also includes the Senior Sergeant who was shown the “W” photograph by Senior Sergeant Solomona during the promotion panel meeting. Both considered there was humour in it.

[168] There is no evidence of any inappropriate photographs since the ER Group was disbanded on 31 March 2004.

Policies to Improve Policing Standards

[169] The former District Commander of the Counties-Manukau Police District, Superintendent Cox and the present District Commander, Superintendent Shortland, have introduced various measures to improve the standard of policing in the District and to remedy some of the problems referred to in this report.

Statement of Vision and Values

[170] On 21 September 2000 The District Commander issued a memorandum setting out the Counties–Manukau District Statement of Vision and Values. As stated in the memorandum, the Vision and Values recognise that the District cannot move forward unless the members realise that it has a solid base from which to launch crime and crash reduction and community safety.

[171] The statement sets out specific values including integrity, professionalism, teamwork and the like, and goes on to say how these visions and values will be realised.

Quality Policing Training

[172] The “Quality Policing” training through 1999 and 2000 provided the opportunity to interact with all staff. Superintendent Cox personally led 33 separate sessions throughout the district where a wide range of issues including policing style, community engagement and similar issues were discussed.

[173] Through 2001 and 2002 there were a number of seminars for Senior Managers, Area Controllers and relievers, and NCOs and non-sworn supervisors. These also covered topics such as strategic direction, relationships between units, responsiveness strategies, managing poor performance, complaints minimisation, supervisors' conduct, values, and so on. All these contained "open discussion" sessions with time to discuss concerns anyone wished to raise.

Operation Step-Up

[174] This operation, under the charge of Detective Inspector Rutherford, is aimed at recruiting more people from Counties-Manukau into the police. The policy has been introduced for two reasons. First, it is to overcome the problems caused by persons being sent to Counties-Manukau to bolster recruit numbers or because they wanted to leap up the recruit waiting list in their hometown. These people sometimes became unhappy working in Counties-Manukau when their requests to return to their hometown were not met. By recruiting persons who have been brought up in Counties-Manukau, applications to transfer elsewhere are likely to be lessened, resulting in longer serving, more experienced officers.

[175] Secondly, officers who have been brought up in Counties-Manukau are more likely to be able to understand and therefore deal effectively with the situations they are likely to encounter.

Vacancies

[176] The District Commander, Superintendent Shortland, has directed that vacancies for NCOs will remain unfilled unless he is satisfied "... the person is suitable to fill it". Training for constables who regularly relieve in NCO positions as acting sergeants is also in place and includes ethics training.

Early Intervention Policy

[177] In February 2005 the District Commander through the District Professional Standards Manager introduced an Early Intervention Policy. The purpose of the policy is to identify recurring individual behaviour that gives cause for concern early

in the member's career and to intervene by way of performance management so that the behaviour is not left unchecked and does not lead to disciplinary action against that member later in his or her career. The policy is activated when there are three complaints or notifiable incidents against a member within a consecutive two year period. The policy sets out in some detail the events that will activate the policy, the intervention phase and the post intervention phase of the policies.

[178] There was initially some opposition to the policy at least in part due to some misunderstanding of how the policy was intended to operate. Some members believed that it involved the introduction of a "three strikes and you are out policy". There was also some misunderstanding concerning the events that would cause the policy to be activated. As result of representations made by members, an amended policy was issued on 13 April 2005.

District Training Packages

[179] Inspector Brady, the Manager, Professional Standards, Counties-Manukau police has run several district training packages during the five-week training cycle which included putting staff into groups and giving them scenarios and power point presentations on topics such as ethics with speakers notes available. The initial response was not positive.

[180] However Inspector Brady believes that since the restructuring of the District and the change in management, there is a focus on professionalism and integrity that has gradually being accepted by front line staff. There is now a more positive response from the members of the District to policing as a team.

Ethics Committee

[181] An Ethics Committee was set up over a year ago. It was initially made up of members from the District's management team. It now includes two frontline members at sergeant and constable level. Although the committee has had some ethical issues put before it, it has primarily been an awards committee.

[182] Inspector Brady has now taken over the role of chair of the committee and intends to propose strategies such as a corruption prevention strategy and a district gratuities register.

Acknowledgments

[183] The enquiry team, Inspector Allan Boreham, Senior Sergeant Lance Burdett and Senior Sergeant Chris Powell, carried out their duties on this enquiry in an exemplary manner. The team's investigations into all aspects of the terms of reference were fair, impartial and complete. I am satisfied that no avenue of legitimate enquiry was left unexplored.

[184] At the conclusion of the enquiry all the material obtained was made available to me in a well organised, tabulated format. Inspector Boreham provided a report that effectively summarised the relevant material under appropriate headings with source material attached as appendices. This was of considerable assistance to me in the preparation of this report, which adopts some passages in his report. I am grateful for the effective assistance that the enquiry team provided to me.

Thursday 29 September 2005



The Hon Sir David Tompkins QC

COUNTIES-MANUKAU POLICE DISTRICT



Appendix 2

Grouped by Seriousness - Absolute

Numbers and types of events in selected districts for 2003 and 2004, grouped by Seriousness

Event Type Description	Code	Auckland	Canterbury	Courtes/Mānukau	North Shore/Waitakere	Wellington	Sum:
Most Serious Offences							
The Rest		2555	980	3216	1650	937	9347
		225746	237891	260842	296324	374964	1445567
Sum:		228301	238870	263958	297974	375901	1454914

Numbers and types of events in selected districts for 2003 and 2004, Most Seriousness Offences only



