

Supplementary Analysis Report: Establishing an Inspector-General of Police

Decision sought	Cabinet decisions on policy proposals to establish an Inspector-General of Police
Agency responsible	Ministry of Justice
Proposing Ministers	Minister of Justice
Date finalised	11 June 2026

This Supplementary Analysis Report (SAR) relates to a number of changes to New Zealand Police (Police) oversight, including replacing the Independent Police Conduct Authority (IPCA) with an Inspector-General of Police (Inspector-General). These changes are intended to create a stronger and more transparent independent Police watchdog, leading to increased public trust and confidence in Police and its oversight body.

A package of changes is being progressed to strengthen oversight of Police and establish the Inspector-General, outlined at **Appendix One**. This SAR focuses on four issues: the powers of the Inspector-General, mandatory notification requirements, the Inspector-General's involvement in employment processes, and prosecutions of Police employees.

Summary: Problem definition and options

What is the policy problem?

Since its establishment in 1988, the IPCA has made recommendations to prevent, identify and address issues of Police misconduct. A recent report relates to Police's handling of complaints against former Deputy Police Commissioner Jevon McSkimming (the McSkimming Report). The report raised issues relating to oversight of Police and integrity.

The IPCA is a complaints-based organisation, which makes much of its work reactive. It has some limited powers to conduct investigations on its 'own motion' for incidents involving death or serious bodily harm, but this work is still reactive. Given the matters raised in the McSkimming Report, intervention is required to enhance oversight of Police and ensure the IPCA can work proactively and decisively to address issues of Police misconduct.

The issues in this SAR comprise recommendations from the McSkimming Report and further options to strengthen oversight of Police identified by the Ministry of Justice and other key stakeholders. These changes seek to make oversight of Police stronger, more transparent and more independent and enhance public trust and confidence in Police and its oversight body.

What is the policy objective?

The overarching objective of this work is to create a stronger and more transparent independent Police oversight body, and to enhance the integrity practices of Police, leading to increased public confidence in that oversight and in Police.

To determine whether the proposals would contribute to achieving this objective, the options progressed need to be effective, efficient, and support the independence of the Inspector-General.

What policy options have been considered, including any alternatives to regulation?

Options are not mutually exclusive, and a package of changes is recommended.

Issue One – Powers of the Inspector-General (all options except status quo are preferred)

- Status quo: the Inspector-General would be a complaints-based organisation with mostly reactive work.
- Own motion power: the Inspector-General would have a clear mandate to undertake own motion inquiries where it is satisfied it is in the public interest.
- Direct access to Police information: the Inspector-General would have the power to directly access Police records that the Inspector-General considers to be relevant to the performance of its functions.
- Entering Police premises: the Inspector-General would have the power to enter Police premises, following written notice to the Commissioner of Police, to undertake any of its functions or duties.

Issue Two – Mandatory notification requirements (all options except status quo are preferred)

- Status quo: legislation would only require the Police to refer complaints as well as incidents involving death or serious bodily injury to the Inspector-General.
- Expand the mandatory reporting requirements: these settings would be amended to include more types of incidents so the Inspector-General has oversight of a wider range of matters.
- Create a duty to report integrity matters to the Inspector-General: a duty would be created for the Commissioner of Police and other senior Police personnel to report potential integrity matters concerning other senior personnel to the Inspector-General, even if the matter falls short of being a formal complaint.

Issue Three – Involvement in employment processes and information sharing (all options except status quo are preferred)

- Status quo: there is some ambiguity about the powers the IPCA currently has to recommend alternative employment outcomes when it disagrees with Police's decision.
- Information sharing: the Inspector-General would have the discretion to share information to support its recommendations, and this information may be used in employment investigations.
- Consultation requirement: Police would be required to consult with the Inspector-General on proposed employment outcomes.

Issue Four – Prosecutions relating to Police employees

- Status quo: Police makes charging decisions in all cases involving Police employees.
- Inspector-General decides if Police must refer cases for an independent charging decision: pursuant to arrangements made by the Solicitor-General, referred cases would be assigned to a Crown Solicitor or external counsel, and Police would be bound by their legal opinion (*preferred*).
- All cases involving Police are referred to an independent panel: the panel of counsel would be administered by Crown Law, and Police would be bound by its legal opinion.
- Enhanced status quo: Police's processes would be published online, an independent Chair would be added to its internal panel, and in cases where legal advice is obtained, Police would be bound by the Crown Solicitor's opinion (codifying existing practice).

What consultation has been undertaken?

Given the timeframes and context for this work, targeted consultation with Police unions and the Chief Victims Advisor has been undertaken.

No further public consultation has been undertaken on the issues in this SAR.

Is the preferred option in the Cabinet paper the same as preferred option in the SAR?

Yes.

Summary: Minister's preferred option in the Cabinet paper

Costs (Core information)

Outline the key monetised and non-monetised costs, where those costs fall (e.g. what people or organisations, or environments), and the nature of those impacts (e.g. direct or indirect)

Issue One – Powers of the Inspector-General

The Inspector-General would need to be adequately resourced to exercise these powers effectively, which could result in increased costs as compared to the IPCA.

Issue Two – Expand mandatory notification requirements

There would be marginal costs associated with more concerns being raised with the Inspector-General, as it would increase the amount of information Police passes on and the Inspector-General needs to triage and potentially investigate. There would be a marginal potential risk to Police employees that the threshold for sharing integrity concerns is not well calibrated, which could unjustifiably cause reputational damage.

Issue Three – Involvement in employment processes and information sharing

The key non-monetised cost would relate to the information sharing option. The Inspector-General could need to create processes to ensure that Police employees are aware that the information gathered may be shared with Police and used in employment investigations. This could generate costs to Police employees if this information sharing results in more serious employment outcomes, and Police unions may need to provide more support to members.

Issue Four – Prosecutions relating to Police employees

We have not identified any net-marginal costs beyond the status quo, given that the option would build on existing processes. Processes for the referral of cases would need to be developed by the Inspector-General, Police, and Crown Law. Police already seeks legal advice in most of the cases that would be eligible for referral. Police may need to pay for independent legal advice in a few cases where it would not have under the status quo, but this could be met within baselines.

Benefits (Core information)

Outline the key monetised and non-monetised benefits, where those benefits fall (e.g. what people or organisations, or environments), and the nature of those impacts (e.g. direct or indirect)

All options being progressed would benefit the public by enhancing trust and confidence in oversight of Police.

Issue One – Powers of the Inspector-General

The Inspector-General would benefit from enhanced powers as additional powers strengthen oversight of Police. A more independent Inspector-General would reduce some costs to Police, particularly regarding responding to information requests.

Issue Two – Expand mandatory notification requirements

Ensuring the Inspector-General is notified of a wider range of matters would allow it to gain a more fulsome picture of Police conduct and activities, enabling greater oversight capacity.

Issue Three – Involvement in employment processes and information sharing

The preferred options would ensure the Inspector-General's views are expressed at the right point in the process, and the information it provides can be used by Police in employment investigations. This would ensure that the Inspector-General's recommendations are actionable by Police and reduce the need for duplicative investigations.

Issue Four – Prosecutions relating to Police employees

The key benefit of this option would be enhanced trust and confidence in charging decisions relating to Police employees, particularly in cases where no charge is laid following a

complaint. The roles of the Inspector-General and Crown Law would ensure that the decisions are, and are perceived as, independent.

Balance of benefits and costs (Core information)

Does the SAR indicate that the benefits of the Minister's preferred option are likely to outweigh the costs?

Taken together, the options progressed for each issue would help to increase the strength and effectiveness of oversight of Police. Therefore, on balance we consider that the benefits of all the options progressed would outweigh the costs.

Implementation

How will the proposal be implemented, who will implement it, and what are the risks?

These options would be implemented through legislation, s9(2)(f)(iv)

. The IPCA would transition into the Inspector-General model, and its caseload would be transferred to the jurisdiction of the Inspector-General. To support this transition, a team has been set up to ensure the smooth transfer of functions to the Inspector-General.

A key implementation risk is if the Inspector-General does not have appropriate powers to achieve the objectives, or its functions are not well articulated, then it will decrease the effectiveness of oversight of Police. This risk would be mitigated by a statutory requirement for a full review of the Inspector-General three years after establishment. This would ensure that any gaps in powers or functions, or unintended consequences, can be identified and adjusted as early as possible.

Limitations and Constraints on Analysis

When the McSkimming Report was considered by Cabinet, Cabinet agreed in principle to all the IPCA's recommendations and to establish an Inspector-General. This decision and the timeframes for establishing the Inspector-General limited the scope of this work to how best to implement those recommendations.

The Ministry of Justice proposed further changes to build on the IPCA's recommendations and support the overarching objective of strengthening oversight of Police. The timeframes for this work, largely driven by Cabinet's decision to introduce legislation prior to the 2026 General Election, meant that we focused our analysis on known issues, options that have previously been canvassed, or suggestions from key agency stakeholders.

These timeframes have also limited the ability to undertake public consultation. This has reduced the amount of data we have considered in our analysis and decreases our confidence that unintended consequences have been appropriately managed. However, we propose to mitigate this risk by including a statutory review of the Inspector-General after three years.

I have read the Supplementary Analysis Report and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the preferred option.



Caroline Greaney
Deputy Secretary, Policy
11 June 2026

Quality Assurance Statement	
Reviewing Agency: Ministry of Justice	QA rating: Meets
The Ministry of Justice’s Regulatory Impact Assessment quality assurance panel has reviewed the Supplementary Analysis Report (SAR), <i>Establishing an Inspector-General of Police</i>, prepared by the Ministry of Justice, and considers that it meets the quality assurance criteria. The SAR is complete, clearly written and concise. The constraints on analysis are appropriately noted, including the nature of previous Cabinet decisions and tight timeframes. Despite these limitations, the panel considers the analysis of the options presented to be balanced and robust. Consultation with a wider range of stakeholders, and in particular Iwi/Māori as Treaty partners and as a group overrepresented in the criminal justice system, would enable the underpinning assumptions to be tested further. The panel considers that, within the constraints outlined in the RIS, the analysis can be relied on to support decision-making.	

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

The Independent Police Conduct Authority

1. The IPCA is the oversight body for Police, and it handles, investigates and resolves complaints about Police. It is also notified of any incidents where a member of Police has caused death or serious bodily harm and may investigate in such cases.
2. A primary objective of the IPCA is to ensure and maintain public confidence in Police. It does so by considering complaints about alleged misconduct or neglect of duty by any member of Police and Police practices, policies and procedures. Its independence is protected by virtue of being an Independent Crown Entity (ICE) under the Crown Entities Act 2004. The Ministry of Justice monitors the IPCA and is responsible for administering the Independent Police Conduct Authority Act 1988 (IPCA Act) to help maintain separation from Police.
3. Prior to 2007, the IPCA was the “Police Complaints Authority”, reflecting its primary focus on complaints. However, reforms in 2007 broadened the IPCA’s scope to Police *conduct*. The IPCA has evolved and adapted over time to keep pace with New Zealanders’ expectations of oversight of Police.
4. The IPCA continues to be a complaints-based organisation, which makes much of its work reactive. It has some limited powers to conduct investigations on its own motion where there are incidents involving death or serious bodily harm; however, this work is reactive in nature.

The McSkimming Report and previous Cabinet decisions

5. In November 2025, the IPCA released a report on Police’s handling of complaints against former Deputy Police Commissioner Jevon McSkimming.¹ The IPCA made several recommendations, which require both legislative and operational changes to implement.

¹ Independent Police Conduct Authority, *Review of Police handling of complaints against Jevon McSkimming* (October 2025). Available at: [https://www.ipca.govt.nz/download/169364/11%20November%202025%20-%20IPCA%20Public%20Report%20-%20Review%20of%20Police%20handling%20of%20complaints%20against%20Jevon%20McSkimming%20\(2\).pdf](https://www.ipca.govt.nz/download/169364/11%20November%202025%20-%20IPCA%20Public%20Report%20-%20Review%20of%20Police%20handling%20of%20complaints%20against%20Jevon%20McSkimming%20(2).pdf).

Cabinet accepted the IPCA's recommendations in principle and agreed to establish a new Police oversight body (the Inspector-General) with enhanced powers (CAB-25-MIN-0405 refers).

6. The McSkimming Report highlighted several issues within Police and the jurisdiction of the IPCA itself. The Report found that Police culture created conditions for deficiencies in its response and Police did not initially follow standard investigative processes. The Report also commented on the powers and jurisdiction of the IPCA, noting that its ability to respond to concerns was constrained in the absence of a formal complaint. The IPCA's recommendations in the Report seek to address the issues identified.
7. Further to the IPCA recommendations, the Ministry of Justice and other key agency stakeholders have identified additional proposals that would support the establishment of an Inspector-General and strengthen oversight of Police. The full suite of changes is outlined at **Appendix One**, with the source of the proposal indicated as appropriate.
8. Given Cabinet's decision to accept in principle the IPCA's recommendations, the scope of this SAR is limited to considering how best to implement the recommendations, rather than providing a comprehensive overview of their regulatory impact. s9(2)(f)(iv)

which

means the Inspector-General legislation will need to be introduced prior to the 2026 General Election. These timeframes have limited the extent to which we have considered alternative options to strengthen oversight of Police.

9. The decision to establish an Inspector-General does not in itself have a regulatory impact. The title of 'Inspector-General' does not have a specific legal status attached to it, and this decision largely relates to the machinery of government. The IPCA would transition into the new Inspector-General model, and the Inspector-General would inherit the IPCA's current functions and powers. The additional functions, powers, and duties required to strengthen oversight of Police would have a regulatory impact, and these are the subject of this SAR.
10. Throughout this SAR, we use the term "IPCA" to refer to the current entity and its existing functions. We use the terms "Police oversight body" or "Inspector-General" as appropriate to refer to the entity that will hold this role and functions with any modifications in future. This reflects Cabinet's previous decision to establish an Inspector-General.

Establishing a new oversight body

11. Since its establishment, the IPCA has published many reports making recommendations to prevent, identify and address issues of Police misconduct,² and there have been multiple comprehensive reviews of Police and its oversight body.³ The McSkimming Report is one of the recent reports which highlights serious issues within Police.
12. Effective and efficient policing services are integral to a well-functioning free and democratic society. Due to the unique and important functions and powers of Police, it is essential that the exercise of these powers is subject to appropriate oversight. That is,

² The various reports on independent investigations, summaries of investigations overseen by the IPCA, and thematic reviews can be found on the IPCA website: <https://www.ipca.govt.nz/Site/publications-and-media/>.

³ For example, Sir Rodney Gallen, *Review of the Police Complaints Authority* (October 2000), available at: https://ndhadeliver.natlib.govt.nz/delivery/DeliveryManagerServlet?dps_pid=IE763528; and *Report of the Commission of Inquiry into Police Conduct* (March 2007), available at: https://ndhadeliver.natlib.govt.nz/webarchive/20090516190020/http://www.cipc.govt.nz/cipc.nsf/wpg_URL/Agency-Commission-of-Inquiry-into-Police-Conduct-Report-of-the-Commission-of-Inquiry-into-Police-Conduct?OpenDocument.

- that there is an independent body that is responsible for receiving complaints about Police conduct, practices, policies and procedures and monitoring Police generally.
13. Independent oversight provides assurance for both the public and Police that allegations of misconduct or neglect of duty are properly dealt with. It ensures that there is recourse for members of the public independent of Police, and the exercise of state power is carried out responsibly and in line with the law.
 14. While independent oversight cannot prevent all the issues that arose out of the McSkimming Report, there are several known limits to the IPCA that impede its ability to provide more effective oversight and prevent conduct and integrity problems before they occur. Intervention is required to enhance the public's trust and confidence in Police and its independent oversight body. A stronger Police oversight body would align with other oversight bodies, such as the Inspector-General for Intelligence and Security (IGIS) and the Inspector-General of Defence (IGD).
 15. Cabinet has agreed to establish the Inspector-General to strengthen the oversight and assurance mechanisms for Police. The structure, functions and powers of the current IPCA would be the starting point for the Inspector-General, and these would be expanded on and strengthened to implement the McSkimming Report recommendations and align with other oversight bodies. **Appendix Two** demonstrates how the IPCA's existing functions and powers would be improved upon to ensure that the new Inspector-General is stronger and more effective.

What is the policy problem or opportunity?

16. Many of the issues identified in previous wide-ranging reviews of Police continue to be raised in IPCA reports, and concerns relating to Police conduct continue to erode the public's trust and confidence in Police⁴ and, by association, its oversight body. We consider that it is likely the systemic issues raised in the McSkimming Report and other wider reviews will continue if not addressed.
17. The McSkimming Report demonstrates the need for the Police oversight body to have enhanced powers. The oversight role can be strengthened to ensure it has all the tools and powers it needs to exercise its oversight role effectively. There is also an opportunity to align with other oversight bodies, in particular, the IGD and IGIS.

Enhancing the independence of the Police oversight body

18. The IPCA's current functions and powers are largely reactive, and it has limited capacity to proactively address matters of Police conduct, policies, practices or procedures. While this reactive function is an essential component of oversight, it is only half the picture; greater powers to investigate matters proactively provides for enhanced *independent* oversight. There is an opportunity to consider how the Police oversight body can be empowered to work proactively.

Codifying current practices

19. The current Memorandum of Understanding (the MOU)⁵ between Police and the IPCA sets out the policies and practices that dictate how the two agencies work together. The MOU sets out details about certain processes in the IPCA Act, in many cases going beyond what is required in legislation and providing for increased collaboration.

⁴ See <https://www.stats.govt.nz/news/new-zealanders-trust-in-key-institutions-declines/>. While Police are generally trusted more than other New Zealand institutions, such as the health and education systems, institutional trust in Police has been declining since 2018.

⁵ <https://www.ipca.govt.nz/download/167169/NZ%20Police%20-%20IPCA%20MoU%202024.pdf>.

20. While the MOU demonstrates a positive working relationship between the IPCA and Police, it relies on continued agreement between the agencies, and some good practices could be removed over time without sufficient oversight. Including more detail in legislation can ensure that such practices are future-proofed and cannot be removed or ignored. This work provides an opportunity to consider the extent that current practices can be codified in legislation.

Improving transparency

21. The public's trust and confidence in Police and, by association, its oversight body is shaped by what it sees in the media and in public settings. If Police is not seen to be held accountable for misconduct, then it tarnishes the views that the public has about Police and makes the Police oversight body appear ineffective.
22. Transparency can help to mitigate this outcome and is an important component of a healthy democratic system. Improved transparency mechanisms, such as reporting on outcomes of investigations and implementation of recommendations, increase awareness of the role of oversight of Police and what actions are taken to address Police misconduct. There is an opportunity to consider what tools the Police oversight body has to enhance transparency.

Stakeholder views

23. We have worked with the IPCA, Police, Crown Law and the Public Service Commission (PSC), along with other agencies as relevant, in developing the issues discussed in this SAR.
24. The IPCA has made a strong case for strengthening oversight of Police and has expressed that changes to the IPCA are required to support its oversight role. The McSkimming Report highlights the changes it sees as necessary to prevent a similar situation from occurring in the future.
25. Police has agreed to and is implementing the operational recommendations from the McSkimming Report. Police has acknowledged the need to respond to the issues raised in the McSkimming Report and has indicated its openness to a stronger oversight body, which recognises the unique and challenging role that Police performs. The Commissioner of Police is generally supportive of the direction of the proposals.
26. PSC has expressed support for addressing the issues highlighted in the McSkimming Report. As the leader of the public service, PSC has an interest in ensuring that the legitimacy and integrity of the public service, including the Police oversight body, is maintained.
27. Crown Law has commented on specific matters but has not expressed an overall view of the proposals.

Population implications

28. All people in New Zealand have an interest in the effective oversight of Police and ensuring that the exercise of state power is appropriate and in line with the law. However, some population groups are more likely to experience adverse interactions with Police and therefore have a heightened interest in having a strong and accessible Police oversight body.
29. Māori are overrepresented at every stage of the criminal justice process, starting with Police interactions. Māori women are more likely to lodge complaints about unwarranted

searches, and Māori are subject to 51 percent of taser discharges.⁶ Māori youth also share a distinct interest; a joint inquiry by the IPCA and the Privacy Commissioner discovered significant over-policing of Māori youth in the form of photographing members of the public.⁷

30. In 2022, 72 percent of Māori survey respondents believed there is racism in the Police,⁸ and an independent report showed that racial inequalities correlate with low levels of trust in Police amongst Māori.⁹
31. Pasifika individuals are more likely to have adverse interactions with Police and experience more serious levels of force by Police than Pākehā.¹⁰ Pasifika peoples' perceptions of Police are generally negative, culminating in a general lack of trust, some of which stems from intergenerational trauma¹¹ and the lasting effect of events such as the Dawn Raids.
32. People who are neurodiverse, the disabled community, the Rainbow community, and people whose first language is not English also experience higher levels of dissatisfaction with Police interactions.¹²

What objectives are sought in relation to the policy problem?

33. The overarching objective of this work is to create a stronger and more transparent independent Police oversight body to enhance the integrity practices of Police, leading to increased public confidence in that oversight and in Police.

Further detail about the Inspector-General and the full suite of changes to strengthen oversight of Police

34. The Inspector-General would be established as a new role under its own statute and would be governed by a Board of between three and five members, including the Inspector-General and up to two Deputy Inspectors-General. As with the current IPCA and the other Inspectors-General (the IGD and the IGIS), the Inspector-General and any other members of the Board would be appointed by the Governor-General on the recommendation of the House, to reflect its statutory independence.
35. We propose board members be required to possess certain relevant skills, for example, they must have appropriate knowledge and experience of working in the legal, justice or police system. Members would not be permitted to have been a New Zealand Police

⁶ Ihi Research "Understanding Policing Delivery" (August 2024), available at:

<https://www.police.govt.nz/about-us/programmes-and-initiatives/understanding-policing-delivery/research>.

⁷ Independent Police Conduct Authority and the Privacy Commissioner, "Joint inquiry by the Independent Police Conduct Authority and the Privacy Commissioner into Police conduct when photographing members of the public" (September 2022), available at: <https://www.ipca.govt.nz/Site/publications-and-media/2022-reports-on-investigations/2022-sep-08-joint-inquiry-opc-and-ipca.aspx>.

⁸ Horizon Research "Police and Māori" (May 2022), available at:

<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwiS5dLArfSAXV17jgGHXasOXwQFnoECBwQAQ&url=https%3A%2F%2Fhorizonpoll.co.nz%2Fattachments%2Fdocs%2Fhorizon-research-police-report-7-june-2022-fi.docx&usq=AOvVaw11SHws5sPVHHJfvBArNFHj&opi=89978449>.

⁹ Above n 6.

¹⁰ Above n 6.

¹¹ Litia Tuiburelevu and others, *Pacific Peoples and the Criminal Justice System in Aotearoa New Zealand* (Borrin foundation, Auckland, 2023), available at: https://www.borrinfoundation.nz/wp-content/uploads/2023/10/PCJS_Report-2.pdf.

¹² Above n 6.

employee within the 10 years prior to their appointment, to bolster the perceived and actual independence of the oversight role.

36. We have proposed that the Inspector-General would be established as an ICE, like the current IPCA. The Inspector-General would be subject to the Crown Entities Act 2004 for functions such as governance and reporting and for financial matters. This would differ from the other Inspectors-General, which are independent statutory officers hosted in departments. The ICE model is more fit-for-purpose for the IGP, reflecting the existing status of the IPCA and providing governance arrangements that reflect its much larger size, budget, and remit as compared to the other Inspectors-General.¹³
37. **Appendix One** sets out the full suite of proposals that are intended to strengthen oversight of Police and support the establishment of the Inspector-General. The issues discussed in this SAR contribute to achieving the stated objective of creating a stronger and more transparent independent Police oversight body; however, they do not illustrate the full scope and scale of the changes. We consider that it is a combination of the proposals outlined in **Appendix One** that would further our objective, and the individual strength of any given proposal is unlikely to have the desired effect by itself.

What consultation has been undertaken?

38. Given the timeframes and context for this work, we have not had an opportunity to undertake public consultation on the issues discussed in this SAR. Further, we have not consulted on the issues with Māori as Treaty partners. The feedback and views of the public would be welcomed during the select committee process for the Bill.
39. The Minister of Justice has undertaken some targeted cross-party consultation on a package of options for establishing the Inspector-General with stronger oversight powers. We have also consulted with the Chief Victims Advisor and the Police unions.¹⁴ Unions were consulted on a package of options, and one union met with Ministry of Justice officials to provide feedback. In general, the unions supported the objective of strengthening oversight of Police; however, they noted concerns about implementing the proposals and the effect on Police employees. The Chief Victims Advisor was provided with a draft copy of the Cabinet paper and this SAR. The Chief Victims Advisor was generally supportive of the proposals and emphasised the importance of an easily accessible and independent complaints system for victims, and the need for the Inspector-General's future operating model to acknowledge complainants as victims.

Section 2: Assessing options to address the policy problem

What criteria will be used to compare options to the status quo?

40. **Effective:** The Inspector-General has appropriate powers to allow it to undertake its oversight role and hold Police to account by exercising the full range of its functions and powers, and is sufficiently flexible to adapt over time.
41. **Efficient:** The Inspector-General is practical to administer, is timely and free from unreasonable delay, and provides value for money.

¹³ By comparison, in 2024/25, the IPCA had a total expenditure of \$6.8 million and employed 40.5 FTE, while the IGIS reported a total expenditure of \$1.6 million and employed 3.27 FTE. We have not compared these figures with the IGD, as it was being established in 2024/25 and expenditure in that year does not reflect its ordinary operating expenses moving forward.

¹⁴ Due to the sequencing and timeframes for this work, the proposal in Issue Four was not part of the consultation with Police unions or political parties and independent MPs represented in Parliament. However, they would have an opportunity to provide feedback on this proposal at Select Committee.

42. **Independent:** The Inspector-General is, and is seen to be, independent in exercising its functions, roles, and powers. The oversight model recognises the respective independence of the Inspector-General and Police, noting that both organisations must continue to be independent.

What scope will options be considered within?

43. As noted above at paragraph 7, we are progressing a full suite of proposals further to the four issues discussed in this SAR, as outlined in **Appendix One**. This provides the full scope and scale of the changes being progressed. We have drawn a distinction between the recommendations from the McSkimming Report and the further recommendations which have resulted from Cabinet's decision to establish an Inspector-General. These additional proposals have been developed by the Ministry of Justice in consultation with the IPCA, Police, PSC and other agencies where relevant.
44. The scope of this work has been focused on giving effect to Cabinet's decision in November to agree in principle to the IPCA's recommendations in the McSkimming Report and to establish an Inspector-General.
45. We have explored some further proposals, in addition to the IPCA's recommendations in the McSkimming Report. We have had limited time to formulate these recommendations and have focused on progressing more straightforward proposals that carry a lower risk of unintended consequences.
46. Where possible, we have recommended non-legislative ways to progress the IPCA's recommendations. We have identified one IPCA recommendation (proposal 4 in **Appendix One**) that can be implemented without amending legislation. Police has also agreed to implement the IPCA's operational recommendations, and we understand this work is well underway.
47. Other non-regulatory options are available which we have not explored in detail in this SAR, particularly in relation to the working relationship between Police and its oversight body. Non-legislative tools, such as the MOU, can shape this relationship to bolster the effectiveness of oversight of Police. However, we consider that this approach does not account for the possibility that the relationship between Police and its oversight body could become fragmented or unproductive, which would limit the degree of oversight it can have. In our view, codifying certain current practices and clearly enabling new functions is more enduring. Therefore, we have focused primarily on legislative changes to progress the proposals as a means of achieving the overarching policy objective.

Te Tiriti o Waitangi/Treaty of Waitangi considerations

48. All New Zealanders have an interest in an effective Police oversight body and its role in maintaining trust and confidence in Police generally. While all citizens are subject to the exercise of state authority through the Police, the rights and interests of Māori must be given particular consideration due to the overrepresentation of Māori in Police statistics, as discussed above in paragraph 29. The Inspector-General would sit on the Kawanatanga axis, and establishing a new and stronger Police oversight body provides the opportunity to hold Police to account, assess how Māori are served by it and whether the Crown is meeting its obligations under te Tiriti o Waitangi/the Treaty of Waitangi (te Tiriti).
49. Each proposal assessed in this paper is unlikely to have a substantial effect as a standalone proposal. However, we consider that the combined strength of the suite of proposals is likely to affect how the Crown as te Tiriti partner implements oversight and accountability of Police.

50. The Crown is obligated to take positive steps to ensure that Māori interests are protected. Expanding the scope of the Inspector-General's functions and powers could allow it to contribute to better outcomes for Māori. The proposed changes would mean that the Inspector-General would have an enhanced proactive and preventative focus, particularly through new educative functions and the power to directly access Police databases. The Inspector-General would also be able to direct Police to undertake an investigation, provide alternative views on employment matters, and exercise its own motion powers. These proposals would empower the Police oversight body to better identify and address inequitable Police interactions with Māori.
51. Improving transparency and enhancing public confidence in Police and its oversight body would have discernible impacts for te Tiriti partners. Proposals to require the Inspector-General to publish a conflict-of-interest policy, an annual oversight report, and a public register to monitor how Police implements the Inspector-General's recommendations would help people to engage with the oversight body and build a culture of trust. This visibility is particularly important for Māori, whose relationship with Police has been historically fraught with mistrust, as discussed above in paragraph 29.
52. The new power for the Inspector-General to decide if Police must refer cases involving Police for an independent charging decision would manage actual and perceived conflicts of interest. This is expected to enhance trust in decisions on whether to prosecute Police employees. This trust is key to the Inspector-General, as an ICE, participating in an effective te Tiriti relationship and protecting access to justice for Māori.

Issue One – Powers of the Inspector-General

Background

53. In part, this issue relates to the IPCA recommendation in the McSkimming Report which recommends that the Government amends the IPCA Act to provide an:¹⁵

“Own motion” jurisdiction, under which the IPCA has the power to investigate any matter relating to the conduct of a Police officer or employee, or any Police practice, policy or procedure, without the need for a complaint.

54. Additionally, we have considered further powers that would achieve the objective of creating a stronger Police oversight body. It follows that in order to have a strong Inspector-General, it needs to have greater powers to perform its enhanced role.

Problem definition

55. Currently, the IPCA's powers are largely reactive and do not allow it to actively seek ways to improve Police practice and culture. Its own motion powers are limited to matters relating to death or serious bodily harm that must be notified to the IPCA (see discussion of Issue Two below).¹⁶ It cannot investigate until it has received a complaint, which means that it may not become aware of all issues relating to Police conduct.
56. Police is required to share information with the IPCA that is necessary for the performance of the IPCA's functions, for example, conducting an investigation.¹⁷ The MOU also provides that applicable IPCA staff may have direct access to certain Police databases relevant to the IPCA's functions.¹⁸ However, in these cases, access is

¹⁵ Above n 1, at paragraph 637.

¹⁶ Section 12(1)(b) of the IPCA Act.

¹⁷ Section 21 of the IPCA Act.

¹⁸ Above n 5, at paragraph 19.

ultimately gatekept by Police – it decides what information is relevant for the IPCA and access to databases is permitted by agreement. This arrangement relies on good faith between Police and the IPCA. There is also a risk of human error, for example, if Police does not anticipate the IPCA's needs when completing an information request, resulting in the IPCA needing to make subsequent requests, which is inefficient. Providing the Police oversight body with reasonable powers to actively undertake its functions is necessary to ensuring there is strong and independent oversight of Police.

57. Similar issues are raised in relation to access to Police premises. We are not aware of specific instances where the IPCA has required access to Police premises and been denied; however, this is due to the good faith between the entities, rather than robust and clear legislation.

What options are being considered?

58. Based on this problem definition, we consider there are three additional powers the Inspector-General could have, and we have presented these as separate options. Options 2-4 are not mutually exclusive and could be progressed either individually or as a combined package (preferred).

Option 1 – Status quo

59. The Inspector-General would continue to have the same powers as the IPCA, largely in relation to receiving and investigating complaints. Under the status quo, the Police oversight body would be a largely reactive organisation with limited ability to undertake proactive work or seek out the information it needs to effectively conduct an investigation. The Inspector-General would rely on the continued good will of Police to complete its investigations.

Option 2 – Own motion

60. The Inspector-General would have a clear mandate to undertake own motion inquiries where it is satisfied that doing so is in the public interest. This would allow the Inspector-General to investigate any incident or series of incidents, or any Police practice, policy or procedure, without the need for a complaint. This is a typical power afforded to other Inspectors-General¹⁹ and is therefore consistent with other oversight bodies.
61. Currently, the IPCA groups complaints together and undertakes thematic reviews on issues of significant public interest.²⁰ Such reviews have covered matters including fleeing drivers and photographing members of the public. An own motion power would mean that the Inspector-General could proactively commence an investigation without needing to wait for a complaint or series of complaints. It would be an overarching power that would ensure the Inspector-General can appropriately and independently perform its oversight role.

Option 3 – Direct access to Police information

62. This option draws on the powers of the IGD²¹ and would allow the Inspector-General to directly access records in the possession or control of Police that the Inspector-General considers may be relevant to the performance of its functions. This would allow the

¹⁹ See section 8 of the Inspector-General of Defence Act 2023 and section 158 of the Intelligence and Security Act 2017.

²⁰ The IPCA's thematic reviews are published on its website: ipca.govt.nz/Site/publications-and-media/thematic-reviews/.

²¹ Section 24 of the Inspector-General of Defence Act 2023.

Inspector-General to browse and search databases where relevant to its duties, instead of relying on the provision of information via Police as under the status quo.

63. We do not see this option as an unlimited power to access all Police records and consider that it should be designed to have some limitations where appropriate. Given the practicalities of implementing this option, it is likely that the details would need to be set out in the MOU or a data access agreement between Police and the Inspector-General. For example, identifying which databases and records the Inspector-General accesses as a matter of course, similar to how some IPCA staff can access certain databases under the status quo.
64. Permitting direct access to Police records would require protections against the use of legally privileged information (LPI) discovered while exercising the power. Encountered LPI could be managed by codifying elements of the current MOU, adopting the IGD's legislative safeguards, and developing detailed written agreements for operationalising access. The current position on use of the information would be maintained wherein LPI cannot be used or relied upon in reports or responses unless the holder of the privilege agrees to waive the privilege.
65. While this power may not result in a substantial change in the day-to-day information flows between the two agencies, it would mean that the ability to access information is protected by statute and is less subject to change. The Inspector-General would continue to have the power to request information from Police, which would ensure it has the information it needs when direct access is impractical.
66. This option would send a clear signal about the shift towards a stronger and more proactive Police oversight body. The power would be vested in the Inspector-General itself via legislation, rather than being permitted in the MOU with Police agreement.

Implementation

67. The Inspector-General's proactive role would be greatly enhanced by the power to directly access, search, and browse all Police information, and this exercise should not be limited. This would require that access to databases include protections for where LPI is discovered in the process of browsing.
68. To best protect LPI, legislation could codify elements of the existing MOU.²² This would include specifying that encountering LPI while exercising the direct access power is not a waiver of legal privilege, and that the Inspector-General undertakes not to compromise the privileged nature of the information in any report or any response to a complainant. Legislation would also clarify that the Inspector-General can only rely on LPI where the holder of the privilege agrees to waive the privilege.
69. The protections for select information found in the exercise of this power found in the IGD legislation would also apply.²³ This would include a safeguard based on section 34, which requires all information received under the Act to be kept secure in accordance with protective security requirements. Protections for privileges of investigation participants as found in section 40 would also apply.
70. These protections would be underpinned by detailed agreements between the Inspector-General and Police, which maintains flexibility for operational and technological change over time. Written agreement could specify who can access the databases, instructions

²² Above n 5, at paragraphs 24-26.

²³ See sections 24, 34, and 40 of the Inspector-General of Defence Act 2023.

for management of the information, detailing how the Inspector-General must not take LPI into account,²⁴ and processes to ensure confidentiality where required.²⁵

Option 4 – Entering Police premises

71. As with Option 3, this option would draw on the powers that the other Inspectors-General have in their legislation.²⁶ The Inspector-General would have the power to enter Police premises, following written notice to the Commissioner of Police, for the purpose of undertaking any of its functions or duties.
72. Currently, the IPCA is permitted to enter Police premises at the invitation of Police. As with Option 3, this approach relies on the continued positive working relationship between the two organisations. Empowering the Inspector-General to access Police premises, rather than relying on an invitation, would create a stronger oversight body that has adequate powers to proactively perform its role.

Options considered but not progressed

73. We considered providing the Inspector-General with the power to make orders protecting privacy or confidentiality, as this is one of the powers of the IGD.²⁷ We have not progressed with this option as we are not aware of situations where the publication of information has impeded an IPCA investigation. We also could not identify cases where such a power would be useful. This power could be an area to consider in the future statutory review of the Inspector-General, discussed in further detail in Section Three, to determine whether there is an appropriate use-case for this power.

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

74. We consider that combining Options 2, 3 and 4 would most effectively address the problem definition. This package of options would provide the Inspector-General with an own motion power, the ability to directly access Police information when undertaking its functions, and the power to access Police premises when required. Collectively, these options would improve the proactive powers of the Inspector-General and reduce the reliance on Police to exercise its functions. This would strengthen oversight of Police and enhance its effectiveness.
75. While Options 3 and 4 could be implemented non-legislatively (for example, via the MOU), we do not consider this is appropriate given the need to strengthen oversight of Police in an enduring way. Implementing these options via the MOU would require the continued agreement between Police and the Inspector-General, which disempowers the Inspector-General and makes it appear passive. As such, implementing Options 3 and 4 in legislation would help to improve the actual and perceived strength of the Police oversight body.

²⁴ See section 19(5B) of the Ombudsmen Act 1975.

²⁵ See section 36 of the Inspector-General of Defence Act 2023.

²⁶ See section 31 of the Inspector-General of Defence Act 2023 and section 184 of the Intelligence and Security Act 2017.

²⁷ Section 38 of the Inspector-General of Defence Act 2023.

How do the options compare to the status quo/counterfactual?

	Option 1 – Status quo	Option 2 – Own motion	Option 3 – Direct access to Police information	Option 4 – Entering Police premises
Effective	0	++ Providing the Inspector-General with the power to proactively undertake investigations on its own motion would bolster its ability to effectively undertake its oversight role.	+ Additional, stronger powers would enhance the perceived effectiveness of the Inspector-General as compared to the IPCA under the status quo. Under the status quo, Police already provides the IPCA with direct access to some databases, as set out in the MOU. It is unclear the degree to which this option would affect the day-to-day information flows between the agencies. This option would provide for the <i>continued</i> effectiveness of the Inspector-General even if there is a future issue between the Inspector-General and Police. This would be more enduring and provide certainty if that were to occur.	+ Additional, stronger powers would enhance the perceived effectiveness of the Inspector-General as compared to the IPCA under the status quo. We are not aware of issues where the IPCA has sought to enter Police premises and been declined. It is unlikely that this option would affect the day-to-day operations of the Inspector-General and its ability to conduct investigations. As noted below, this power would ensure that the Inspector-General can continue to exercise its functions even if there were a relationship issue between the Inspector-General and Police. This would be more enduring and provide certainty if a relationship difficulty were to occur.
Efficient	0	++ An own motion jurisdiction is a key component of other comparable oversight bodies (the IGIS and IGD). It would be more efficient for the Inspector-General to proactively decide to investigate matters. The Inspector-General would not have to wait for a complaint or Police notification to decide whether to investigate a particular matter.	++ If the relationship between the Inspector-General and Police were to become unworkable, this power would ensure that the Inspector-General could continue to efficiently undertake its functions. It would be more efficient for the Inspector-General to directly access the information it needs, as it would not require Police resources in the same way an information request does. Clarifying the position regarding legally privileged information would also improve efficiency by reducing the risk of litigating access to and use of materials. This option would reduce the risk of human error if Police does not anticipate the Inspector-General's needs, as the Inspector-General would be able to directly access the information it needs without Police agreement.	++ If the relationship between the Inspector-General and Police were to become unworkable, this power would ensure that it can continue to efficiently undertake its functions. This option would allow the Inspector-General to act more quickly as compared to the status quo, because it could proactively give notice that it intends to enter Police premises, rather than waiting on a Police invitation.
Independent	0	++ The ability to undertake an investigation on its own motion is a critical component of independence. It would provide more autonomy to the Inspector-General as compared to the IPCA under the status quo.	++ The power to have direct access would mean that the Inspector-General can independently access the information it needs for an investigation. It would not rely on Police to collate and share information upon request. An appropriately empowered and independent Police oversight body is likely to give the public confidence that the Inspector-General can perform its oversight role.	++ The power to enter Police premises would be vested in the Inspector-General, rather than depending on a Police invitation. This would enhance the independence of the Inspector-General, which is likely to give the public confidence in the ability of the Inspector-General as the Police oversight body.
Overall assessment	0	++	++	++

Key: ++ much better than the status quo; + better than the status quo; 0 about the same as the status quo; - worse than the status quo; -- much worse than the status quo

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the SAR?

76. The Minister's preferred package of options (Options 2-4) aligns with the Ministry's preferred options.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

Affected groups	Comment	Impact	Evidence certainty
Additional costs of the preferred option compared to taking no action			
The Inspector-General	These options would be likely to result in increased costs for the Inspector-General, as compared to the IPCA. The Inspector-General would need to be adequately resourced in order to exercise these powers effectively.	Medium	High
Police	There could be a marginal corresponding cost to Police when the Inspector-General exercises its functions, as it would need to dedicate resources to respond to and assist the Inspector-General in its investigation as required. This cost is largely associated with Option 2 and would be mitigated by the benefits associated with other proposed options.	Low	High
Total monetised costs		Unknown	
Non-monetised costs		<i>Medium</i>	<i>High</i>
Additional benefits of the preferred option compared to taking no action			
The Inspector-General	Additional powers would make the Inspector-General stronger and more independent than the IPCA under the status quo, and it would be more capable of effectively overseeing Police. The extent of this benefit would be constrained by the amount of resourcing the Inspector-General has.	High	Medium
Police	Overall, the package of proposals could lead to a reduction in the corresponding cost to Police. The Inspector-General would have direct access to information, which is likely to reduce the resources required to respond to requests for information if the Inspector-General can access that information itself.	Medium	Medium
General public	A stronger oversight body would support the public's trust and confidence in both Police and the Inspector-General. The stronger the powers of the Inspector-General, the more the public can trust it to perform its oversight role. The oversight roles would	Medium	Medium

	be more effective as a result, and therefore the public could trust that Police will be held to account.		
Total monetised benefits		N/A	
Non-monetised benefits		<i>High</i>	<i>Medium</i>

Issue Two – Expand mandatory notification requirements

Background

77. This issue is the result of the Ministry’s analysis on what is necessary to meet the objective of strengthening oversight of Police. The current mandatory reporting requirements set out in the IPCA Act may create a gap in the information that the IPCA receives, reducing its effectiveness as an oversight body.

Problem definition

78. Currently, the Commissioner of Police is only required to notify the IPCA of incidents when there has been a complaint, or an incident involving a Police officer acting in his or her duty resulting in death or serious bodily harm.²⁸ This limits the ability of the Police oversight body to have oversight of a wider range incidents involving Police that are serious but do not result in death or serious bodily harm or do not give rise to a specific complaint. There is a potential gap where the IPCA currently has reduced capacity for effective oversight.
79. Under the current law, only formal complaints must be referred to the IPCA. An internal hierarchical culture within Police may hinder concerns being raised about senior Police personnel that fall short of a specific complaint but nonetheless raises concerns about their overall integrity and fitness for duty. This impedes the oversight body’s ability to have a full picture of Police culture at a senior leadership level.

What options are being considered?

80. Based on this problem definition, we have identified two options which could be pursued either individually or as a package.

Option 5 – Status quo

81. The legislation would only require Police to refer complaints as well as incidents involving death or serious bodily injury to the oversight body.
82. Currently, the MOU sets out a wider range of activities that the Commissioner of Police can request the IPCA to investigate. These are:²⁹
- *any matter involving criminal offending or serious misconduct by a Police employee, where that matter is of such significance or public interest that it places or is likely to place Police reputation at risk;*

²⁸ ‘Serious bodily harm’ is defined in the MOU as any fracture, deep laceration, significant injury to internal organ, significant impairment of a bodily function, injury that results in admission to hospital (excluding treatment only at the Accident and Emergency Department), or a blow to the head that renders the recipient unconscious or results in discernible head injury or concussion.

²⁹ Above n 5, at paragraph 12.

- *any incident where a Police employee has intentionally discharged a firearm;*
- *any matter where there has been adverse judicial comment against a Police employee or Police practice, policy or procedure;*
- *any incident involving attempted suicide or self-harm by a detainee in Police custodial facilities; or*
- *any unintentional dog bite involving a member of the public;*
- *any other matter that the Commissioner chooses to notify accepting that the IPCA may, at its own discretion, not accept or investigate any such matter so referred.*

Option 6 – Expand the mandatory reporting requirements to include more types of incidents

83. This option would codify current practice by creating a legislative requirement for Police to notify the oversight body of the wider range of incidents set out in the MOU. A key drawback of the status quo is the MOU can be amended over time, and the Commissioner could cease to notify the oversight body of these serious incidents if the relationship is under pressure. We consider that a legislative requirement would be more certain, enduring, and less likely to be diluted; however, it would not be as flexible as the MOU. Therefore, the list of notifiable incidents would be set out in regulations to strike the balance between flexibility and certainty.
84. Regulations do not currently exist under the IPCA Act, so a new regulation-making power would be required to progress this option.

Option 7 – Create a duty to report integrity matters to the Inspector-General

85. This option would create a duty for the Commissioner of Police and other senior Police personnel (i.e. a senior leader responsible for integrity – see proposal 2 in **Appendix One**) to report potential integrity matters concerning other senior personnel to the Inspector-General. This duty would apply even if the matter fell short of being a formal complaint.
86. There would need to be some form of threshold to ensure that only non-trivial or reasonably substantiated matters are escalated. Therefore, we would expect that further detail about the type and scale of concerns that should be raised could be set out in regulations. We think this would allow flexibility in how the duty is applied.
87. This option would allow the Inspector-General to have a fuller picture of all integrity concerns that affect senior Police personnel. The Inspector-General would be well positioned to identify concerning patterns of behaviour that may not otherwise appear connected. For example, there could be a series of concerns raised about a senior Police employee that are relatively innocuous individually, but taken together they point to a wider pattern of behaviour which could damage public trust and confidence in Police.

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

88. We consider that combining Options 6 and 7 would best achieve the objective and address the problem identified. The legislation would ensure that the Inspector-General continues to be notified of a wider range of matters, as compared to the status quo. Awareness of a range of matters is a precondition of oversight; without it, the Inspector-General would not be able to appropriately exercise its role.
89. There may be matters that fall outside of these mandatory notification requirements or the existing complaints function. This could be addressed by including a catch-all

provision in the legislation to ensure that the Inspector-General is empowered to act regardless of how matters are brought to its attention. This approach would be consistent with the IGD Act³⁰ and would ensure that the Inspector-General can maintain an expansive level of oversight.

³⁰ Section 23 of the IGD Act reads: “Any person, including a person working for the Defence Force, may bring any matter to the Inspector-General’s attention that the person considers may be relevant to the performance of the Inspector-General’s functions.”

How do the options compare to the status quo/counterfactual?

	Option 5 – Status quo	Option 6 – Expand mandatory reporting to include more incidents	Option 7 – Create a duty to report integrity issues to the Inspector-General
Effective	0	++ If the Inspector-General were not aware of an incident, then it would be limited in the actions it could take, which could make it less effective. This option would ensure that the Inspector-General would continue to be notified of a wide range of incidents by clearly setting a requirement in legislation, rather than in the MOU under the status quo.	++ The more information the Inspector-General has about the potential integrity issues of Police personnel, the more effectively it would be able to undertake its oversight role.
Efficient	0	0 This option would essentially codify the operational status quo, so it would be unlikely to have a meaningful effect on efficiency.	- This option may create some inefficiency if large amounts of information that is relatively trivial or is not supported by evidence is shared with the Inspector-General. It may be more challenging to synthesise this information and identify patterns. This could be mitigated by setting an appropriate threshold to filter out trivial matters.
Independent	0	++ Codifying the status quo and setting these requirements in regulations would support the independence of the Inspector-General, as it does not rely on a continuing agreement between Police and the Inspector-General.	++ The more information the Inspector-General has, the more capable it is to independently exercise its functions. It can decide how best to action the information it receives.
Overall assessment	0	++	+

Key: ++ much better than the status quo; + better than the status quo; 0 about the same as the status quo; - worse than the status quo; -- much worse than the status quo

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the SAR?

90. The Minister's preferred options (Options 6 and 7) align with the Ministry's preferred options.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

Affected groups	Comment	Impact	Evidence certainty
Additional costs of the preferred option compared to taking no action			
The Inspector-General	The preferred options (particularly Option 7) would be likely to result in more information being shared with the Inspector-General, however, we consider that any cost would be minimal (if there is any at all).	Medium	Low
Police	The preferred options (particularly Option 7) would be likely to result in more information being shared; however, we consider that any cost would be minimal (if there is any at all).	Low	Medium
Individual Police employees	Option 7 would create a potential risk that if the threshold for sharing information was not well calibrated, then individual Police employees could be subjected to unfounded concerns being shared with the Inspector-General. We consider that this risk is marginal and would be outweighed by the benefits outlined below.	Medium	Low
Total monetised costs		N/A	
Non-monetised costs		<i>Medium</i>	<i>Low</i>
Additional benefits of the preferred option compared to taking no action			
The Inspector-General	Ensuring the Inspector-General is notified of a wider range of incidents and concerns would allow it to have a fuller picture of matters that relate to the conduct and integrity of Police. The Inspector-General would have greater ability to identify systemic integrity issues or trends, which can be more difficult to detect from only receiving complaints.	Medium	Medium
General public	A stronger oversight body would enhance the public's trust and confidence in the Inspector-General as the Police oversight body generally. More specifically, the enhanced powers would increase public confidence in the Inspector-General's ability to identify and investigate systemic integrity issues.	Medium	Medium

Total monetised benefits		N/A	
Non-monetised benefits		Medium	Medium

Issue Three – Involvement in employment processes and information

Background

91. This issue relates to the IPCA recommendation in the McSkimming Report that recommends that the Government amends the IPCA Act to provide:³¹

The power to make a non-binding recommendation of an alternative outcome to the Commissioner [of Police] if the IPCA disagrees with a proposed employment outcome.

92. We have considered various options to give effect to the IPCA's recommendation, as discussed below.

Problem definition

93. The IPCA is empowered to make non-binding recommendations about employment outcomes under sections 27(2) and 28(2)(b) of the IPCA Act.³² However, we understand that in practice this is ambiguous. The perceived ambiguity surrounding the extent of the IPCA's recommendatory powers mean that it stops short of making specific recommendations to Police on employment matters.
94. The IPCA is also subject to a general secrecy obligation. The IPCA is required to maintain secrecy in regard to all information it gathers in the course of its investigations and in the exercise of its functions, but it may disclose information in order to establish grounds for its recommendations.³³ Any information that the IPCA does disclose cannot be used in other proceedings,³⁴ so if the IPCA makes a recommendation accompanied by evidence about an employment matter, Police cannot use that information in its decision making.
95. These secrecy provisions create a situation where the IPCA could support a recommendation with clear evidence, but Police is not permitted to act on or use that evidence. Police must independently gather the same information, which is inefficient.
96. The IPCA engages with Police throughout employment investigations and has regular channels to provide views on the direction of an investigation; however, this is not a legislative requirement so is not clearly enduring.³⁵

³¹ Above n 1, at paragraph 637.

³² Section 27 sets out the procedure after an independent IPCA investigation, including the ability to make recommendations where it sees fit. Section 28 allows the IPCA to, where it disagrees with the Commissioner's decision or proposed decision, make alternative recommendations as it thinks fit.

³³ Section 32, Independent Police Conduct Authority Act 1988.

³⁴ Section 25(4), Independent Police Conduct Authority Act 1988.

³⁵ The IPCA and Police are currently in the process of negotiating their MOU and associated Practice Notes, and we understand that this will cover these regular informal channels.

What options are being considered?

97. We have identified two options to address this problem definition. These options are not mutually exclusive and can be progressed either individually or as a combined package (preferred).

Option 8 – Status quo

98. There is some operational ambiguity about the recommendatory powers the oversight body has on alternative employment outcomes when it disagrees with Police's decision. The IPCA has opportunities to comment as Police work through its processes, as set out in the MOU.³⁶
99. The oversight body would be permitted to disclose information to establish grounds for its recommendations;³⁷ however, that information could not be used in any other proceedings.³⁸

Option 9 – Allow the Inspector-General to share information to support its recommendations

100. Since the IPCA currently has the power under the IPCA Act to make non-binding recommendations on employment outcomes, the additional power recommended in the McSkimming Report may not be required. However, changes could be made to address any operational ambiguity, improve the certainty and clarity of the law, and ensure that Police can more easily implement the oversight body's recommendations on employment investigations.
101. The Inspector-General legislation would make it clear that the Inspector-General can share information or evidence in support of its recommendations, and that information can be used in employment investigations.

Information sharing

102. Section 32 of the IPCA Act already permits disclosing information to establish grounds for a recommendation; however, we consider that the law could be amended to make this exception to the general obligation of secrecy clearer.³⁹ It may not always be necessary or appropriate to disclose evidence in every case, for example, where there is an ongoing criminal investigation and the evidence could be prejudicial, or where a witness has provided evidence on the condition of confidentiality. As such, the legislation would provide the Inspector-General with the discretion to decide when it is appropriate to share information.

Subsequent use of Inspector-General information

103. Section 25 of the IPCA Act would be amended to allow further use of Inspector-General information in employment investigations and outcomes. This means Police would be able to consider evidence from the Inspector-General in its employment investigations. The change would not override ordinary employment law processes or natural justice principles. Police would remain the decision-maker in employment matters, and any information being considered would be disclosed to the employee for transparency. The effect of this proposal would be that Police could use or rely upon evidence collected and

³⁶ This is currently in draft form and is being negotiated between the IPCA and Police.

³⁷ Section 32(2)(b), Independent Police Conduct Authority Act 1988.

³⁸ Section 25(4), Independent Police Conduct Authority Act 1988.

³⁹ See, for example, section 206 of the Privacy Act 2020 and section 21 of the Ombudsmen Act 1975 for a clearer approach to secrecy provisions.

disclosed by the Inspector-General in its employment investigations and would not need to conduct duplicative processes.

104. The legislation would also allow information relating to statutory officers (or candidates for a statutory role) to be disclosed to PSC. PSC is responsible for the appointment and performance management of statutory officers, so this would allow PSC to take pertinent information into account as it considers future appointments for statutory officers (for example, if a Deputy Commissioner were to apply to be the Commissioner).

Implementation

105. Operational procedures and practices would be key to implementing this proposal. For example, the Inspector-General would need to make it clear to interviewees that the information they provide may be shared in line with the Inspector-General's functions and may be used in a subsequent employment investigation. There would be a risk that this onward sharing and use of information could result in interviewees being less forthcoming with the Inspector-General. This risk would need to be weighed against the efficiency gains by reducing the need for duplicative processes. There would also be potential risks associated with how information compelled under section 24 of the IPCA Act is used, as it could be seen as unpalatable to compel a person to share information that results in disciplinary action taken by another organisation. On balance, we consider that these risks could be managed by the Inspector-General utilising its discretion to share information and appropriate operational practices.
106. We note that amending the secrecy provisions would change the approach to other legislation that requires information to be released, specifically the Privacy Act 2020. The amended approach to secrecy would not override the Privacy Act, and we would expect the Inspector-General to rely on the processes set out in that Act to manage any risks associated with releasing information to a requestor. For example, the Inspector-General would not release information that is subject to an ongoing investigation or that would cause harm to the requestor. The same applies to the Official Information Act 1982, which is discussed in further detail under proposal 13 in **Appendix One**.

Option 10 – Require consultation with Inspector-General on employment investigations

107. The Inspector-General legislation would require Police to consult the Inspector-General on the draft outcome of an employment investigation before it is communicated to the employee, so the Inspector-General has an opportunity to provide its views on the proposed outcome. Police, as the employer, would remain the decision-maker.
108. This approach would reflect the current practice as set out in the draft MOU guidance; however, codifying a consultation requirement would ensure this practice is enduring. For instance, if the relationship between Police and the Inspector-General fragmented or otherwise became strained, then optional consultation processes may not be adhered to. However, a legislative requirement would protect this process, regardless of the working relationship between the two entities.
109. This proposal would be bolstered by proposal 10 in **Appendix One**, which would provide that when the Inspector-General is undertaking the investigation itself (rather than overseeing a Police investigation), it would be able to direct Police to pause its investigation. Taken together, these options would mean that consultation on a draft employment outcome would take place after the Inspector-General had completed its own investigation (where relevant).

Options considered but not progressed

110. We considered removing the secrecy requirements entirely, which would allow Inspector-General information to be used in any proceedings, including criminal or civil proceedings. However, this would be a significant departure from the status quo, and there would be wider procedural ramifications that we could not sufficiently work through in the timeframes. For instance, if information gathered by the Inspector-General could be used in criminal proceedings, then the Inspector-General would need to caution witnesses and interviewees. This would require the Inspector-General to change its investigative procedures and could have other unintended consequences, such as causing people to be less forthcoming with the Inspector-General. Considering the overarching purpose of the Inspector-General is to provide oversight of Police actions, this would be an undesirable outcome. We would need to undertake further work to limit such unintended consequences if this is considered in the future.
111. As discussed below in Section Three, the Inspector-General legislation would require a statutory review of the Inspector-General after three years. At that time, we may consider whether further changes to the secrecy requirements are necessary.

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

112. We consider that combining Options 9 and 10 is preferred to the status quo. These options would better achieve the policy objective and address the problem identified. Under the status quo, the oversight body would not always be able to express its views at the right time, supported by appropriate evidence. The combination of Options 9 and 10 would seek to address this issue by ensuring that the Inspector-General's views are persuasive and actionable.
113. The ability of the IPCA to make strong evidence-based recommendations that Police can act on is currently constrained by the IPCA Act secrecy provisions. Police remain the decision-maker in employment matters, and the changes in Option 9 would seek to make this process more efficient by allowing Police to use and rely on material provided by the Inspector-General. We consider that this would enhance the Inspector-General's effectiveness.
114. These changes, combined with the ability to direct Police to defer an employment process while the Inspector-General completes its investigation (as explained in proposal 10 in **Appendix One**), would ensure that the Inspector-General would have all relevant information when it is consulted on an employment outcome, and Police could consider all viewpoints and relevant evidence before making its final decision.

How do the options compare to the status quo/counterfactual?

	Option 8 – Status quo	Option 9 – Allow the Inspector-General to share information to support its recommendations	Option 10 - Require consultation with the Inspector-General on employment investigations
Effective	0	+ The Inspector-General would have discretion to disclose information it has collected and flexibility to share information as it sees fit. This option would manage competing considerations with regard to effectiveness and efficiency. Appropriately exercising the discretion would be critical to managing the risk that people may not be as forthcoming with the Inspector-General if information is shared. This could also be managed by providing interviewees with information at the outset of an interview. The Inspector-General's opinions on employment matters may be more persuasive when supported by more evidence from its investigations.	+ The effectiveness of Inspector-General recommendations on employment matters is affected by the timing, for example, a recommendation is largely ineffective if it is made some time after an employment process is completed. Ensuring the Inspector-General would have an opportunity to express its views <i>before</i> an employment matter is decided would enhance the effectiveness of its recommendation. While a consultation requirement is consistent with current practice, legislation would make the practice compulsory, which would improve effectiveness and certainty of process.
Efficient	0	++ This option would prevent the need for Police to independently come by information that the Inspector-General already holds, reducing duplication of effort and impact on parties to the investigation. As noted above, the ability for Police to use information from the Inspector-General would enhance efficiency but could result in people being less forthcoming with information. However, this would be mitigated by providing the Inspector-General with appropriate discretion to manage this trade-off.	++ Ensuring the Inspector-General has sufficient opportunity to comment on an employment outcome <i>before</i> it is decided would enhance efficiency, as it would mean that the employment process does not need to be reopened. It would be more efficient for Police to consider the Inspector-General's views at the time it makes its final decision.
Independent	0	+ This option would allow the Inspector-General to assert its independent view, while still respecting Police's independence as the decision-maker. It would support the independence of both the Inspector-General and Police by ensuring each entity has relevant information.	+ This option would reflect the independence of both the Inspector-General and Police. Ensuring the Inspector-General has sufficient opportunity to comment before a decision is made would allow the Inspector-General to fully exercise its independent oversight role. Likewise, Police would retain final decision-making power as the employer.
Overall assessment	0	+	+

Key: ++ much better than the status quo; + better than the status quo; 0 about the same as the status quo; - worse than the status quo; -- much worse than the status quo

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the SAR?

115. The Minister's preferred combination of options (Options 9 and 10) aligns with the Ministry's preferred options.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

Affected groups	Comment	Impact	Evidence certainty
Additional costs of the preferred option compared to taking no action			
Individual Police employees	Information the Inspector-General collects could be used in an employment investigation by Police. Police employees could experience individual costs as a result of this information sharing and use.	Low	High
Police unions	The ability for Inspector-General information to be used in Police employment investigations could increase the amount of support unions would need to provide to their members during employment investigations. This could increase the resources required to perform that function.	Low	High
The Inspector-General	The Inspector-General may need to amend its processes to notify Police employees and witnesses that the information it collects may be shared with Police for the purposes of an employment investigation.	Low	High
Total monetised costs		N/A	
Non-monetised costs		Low	High
Additional benefits of the preferred option compared to taking no action			
The Inspector-General	The preferred combination of options would be likely to strengthen the Inspector-General by ensuring it can influence decisions in a timely and meaningful way. This would reinforce the Inspector-General's institutional position as an oversight body.	Medium	Medium
Police	Police would have the benefit of the Inspector-General's views and potentially a wider range of evidence at the time it makes final employment decisions. This approach may reduce the likelihood that employment decisions are challenged or judicially reviewed, as Police would be able to demonstrate that it based its decision on all available facts. Under the status quo this is not possible, as the IPCA could have different information to Police. In our view, the	Medium	Medium

	combination of these options may support the legitimacy of Police decisions. It would also reduce the resources required for some investigations as Police would be able to use information already gathered by the Inspector-General.		
Individual Police employees	As a result of the benefits to Police outlined above, there would be a consequential benefit to employees, as they would have greater certainty about the result of an employment investigation.	Low	Medium
PSC	Option 9 would allow PSC to have a wider range of information about statutory officers, which is relevant to future appointments for those individuals. This would support PSC in performing its general oversight role of statutory officers.	Medium	Medium
General public	The preferred combination of options would enhance the strength of the Inspector-General when it articulates its views. This could improve the trust and confidence the public has in Police by supporting the Inspector-General's independent oversight role.	Medium	Medium
Total monetised benefits		N/A	
Non-monetised benefits		<i>Medium</i>	<i>Medium</i>

Issue Four – Prosecutions relating to Police employees

Background

116. This issue relates to the IPCA recommendation in the McSkimming Report that, to achieve independence in charging decisions relating to Police employees:⁴⁰

Statutory provision be made for decisions as to the prosecution of Police officers following a criminal investigation to be made by a senior counsel who would be a member of a panel constituted for that purpose.

Problem definition

117. Currently, all charging decisions about Police employees sit with Police. While the Solicitor-General's guidelines require Police to follow legal advice in any cases where it has received an opinion from a Crown Solicitor, this mechanism is not obvious to the public. Nor is Police required to obtain advice in many lower-level cases.
118. The process suffers from at least the appearance of a conflict of interest:⁴¹ the perception that charging decisions about Police employees may have been influenced by the interests of Police as an organisation, whatever the reality in practice. This risks undermining public trust and confidence in Police's actions, the perceived legitimacy of

⁴⁰ Above n 1, paragraph 636; see also: paragraphs 624-630.

⁴¹ Above n 1, paragraphs 624-625.

its authority, and in turn public cooperation in maintaining law and order.⁴² The more serious the alleged misconduct, the greater the need for independence.⁴³

119. Further, as is true for any organisation, internal accountability has a risk of bias influencing the interpretation of evidence, consciously or unconsciously.⁴⁴ The consequences of such risks are magnified when it concerns organisations entrusted to exercise state powers. It should not be assumed that this will always, or even usually, affect the outcome of any individual case, but this risk is always present.⁴⁵
120. In all comparable jurisdictions, there is an ability for an independent oversight agency to refer cases involving Police for an independent charging decision, where appropriate.⁴⁶ International best practice principles recognise the importance of institutional independence when a Police officer is accused of criminal conduct, to ensure the perception and reality of impartiality.⁴⁷

What options are being considered?

Option 11 – Status quo

121. Over the last five years, Police has developed a centralised system for making decisions about whether Police employees should be prosecuted:
- In critical incidents⁴⁸ as the result of an action by a Police officer, the criminal investigation report is considered by the relevant territorial Detective Superintendent for a decision. Police always seeks legal advice from a Crown Solicitor. Police may consult with Crown Law if it seeks a second opinion.
 - In cases where an immediate arrest and charging decisions are required (such as when responding to family violence incidents), the decision to prosecute is made by the District Commander or other appropriate District Manager.
 - For road policing matters, a panel has recently been established in November 2025: the Driving Charging Advisory Panel (DCAP).

⁴² *Democratic Oversight of the Police*, May 2022, European Parliament, pages 20-21: “[Research shows] that public perceptions of the ways people are treated by police officers are important in influencing ideas both about the legitimacy of the authority and subsequent cooperation with it... The failure of police forces to be answerable for their acts and to act responsively upon are usually quite detrimental to public trust.” Available at:

[https://www.europarl.europa.eu/RegData/etudes/STUD/2022/703590/IPOL_STU\(2022\)703590_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2022/703590/IPOL_STU(2022)703590_EN.pdf).

⁴³ *Raewyn Wallace v Attorney-General [2021] NZHC 1963*, paragraph [433]; see also: [375], [382], [390], [396]. Available at:

https://www.justice.govt.nz/jdo_documents/workspace_SpacesStore_a2bfdff3_652c_4ebe_a794_651b8bec56a2.pdf.

⁴⁴ Above n 42, pages 20-21. Values and norms that arise from the challenges involved in policing work “plays a positive role in enhancing police officers’ safety... [but] the solidarity of police culture has also been criticised for perpetuating misconduct through a ‘code of silence’.”

⁴⁵ Above n 1, paragraphs 558-590, 625.

⁴⁶ *The fourth power. A mapping of police oversight agencies in Europe and Quebec*, Varaine & Roché, 14 June 2023. Available at: <https://www.tandfonline.com/doi/abs/10.1080/10439463.2023.2223741>.

⁴⁷ *Handbook on police accountability, oversight and integrity*, UN Office on Drugs and Crime, July 2011, pages 69-70: “Successful external police oversight... should have the power to refer cases for criminal prosecution... [and] should have full operational and hierarchical independence from police.” Available at:

https://www.unodc.org/pdf/criminal_justice/Handbook_on_police_Accountability_Oversight_and_Integrity.pdf.

⁴⁸ An incident involving death or life-threatening injury to a person during any Police activity, or in Police custody, or under the care of Police; or where a Police employee discharges a firearm intentionally at a person, whether or not death or injury results, or any accidental discharge that results in death or injury.

- d. In all other cases, the report is submitted to the Criminal Charging Advisory Panel (CCAP). CCAP is based at Police National Headquarters, and its members are senior Police officers or employees (Assistant Commissioner and Director level). The Chair of the CCAP makes a decision about whether or not to charge based on the Test for Prosecution in the Solicitor-General's Prosecution Guidelines. They have the ability to request further investigation or seek legal advice from a Crown Solicitor before a decision is made.
122. In all but the least serious cases, the IPCA has visibility of these cases and the opportunity to provide feedback.
 123. Once a charging decision is made, Police would file the charge. All Police-related cases are subsequently transferred to a Crown Solicitor for prosecution.⁴⁹ The Crown Solicitor reviews the charges and may amend them as appropriate based on the evidence.
 124. Over the last three years (from 2023-March 2026), in 272 concluded criminal investigations of Police staff, 86 resulted in charges and 186 resulted in no charge. The number of investigations is broadly comparable with overseas jurisdictions.⁵⁰ Police recorded 264 cases where the IPCA had the opportunity to provide an opinion. In 17 of these cases (6 percent), there was a difference of view between Police and the IPCA. Of these, there were:
 - a. 13 cases where the IPCA recommended a charge, but Police did not; versus
 - b. 4 cases where IPCA recommended no charge, but Police did.
 125. Around three-quarters of Police staff that were charged were acquitted in Court, compared to around one-fifth of all other cases.

Option 12 – Inspector-General decides if Police must refer cases for an independent decision

126. The Inspector-General would be given the power to require Police to refer any case involving Police employees⁵¹ for an independent charging decision, where the Inspector-General:
 - a. disagrees with Police on whether charges should be laid; or
 - b. disagrees with Police on what charges are appropriate; or
 - c. considers an independent review is otherwise required in the public interest.
127. If none of these apply, decision-making would remain with the status quo processes. We estimate roughly 20 cases (out of 80-100 per year) would be referred annually.
128. The Inspector-General would be able to form a view as to whether a trigger is met as part of its oversight functions and with its proposed new powers. These include expanded Police notification requirements for serious incidents, the ability to directly access Police records, and the ability to direct Police to undertake (further) investigation if necessary.
129. If the Inspector-General decided a case should be referred, Police would contact Crown Law and it would be assigned, pursuant to arrangements made by the Solicitor-General. The case would go to the local Crown Solicitor, unless there was a real or perceived conflict of interest.⁵² If there was a conflict, the case would be assigned to a Crown

⁴⁹ At the appropriate time, in accordance with the Crown Prosecution Regulations 2013.

⁵⁰ Above n 46. The IPCA and Inspector-General are comparable to overseas specialised Police oversight agencies, which have an average of 131 complaints per 1,000 Police officers, 5.2 percent of which result in referral to public prosecutors. For New Zealand's roughly 15,000 Police employees (roughly 10,000 sworn officers and 5,000 non-sworn staff), this equates to 100 cases annually, on par to New Zealand's current 2023-2025 average of roughly 89 cases per year.

⁵¹ Regardless of the seriousness of the cases, or whether the conduct was on-duty or off-duty, or by sworn officers or non-sworn staff.

⁵² Above n 1, paragraph 628.

Solicitor in another district or external counsel with prosecutorial experience. The Solicitor-General would put in place arrangements if satisfied that a second opinion on charging was required.

130. Police would be bound by the legal advice's decision as to filing a charging document.⁵³

131. For all cases where a Police employee is charged (whether the decision was referred or not), a Crown Solicitor would, as soon as practicable, assume independent responsibility for the prosecution on behalf of the Crown. This would mean the Solicitor-General would be the client, rather than acting on the instruction of Police. This would enhance public confidence in the outcome of cases, particularly where there is a verdict of not guilty.

Option 13 – All cases involving Police to be referred to an independent panel

132. This would be similar to the previous option, with two key policy differences:

- a. First, there would be no referral criteria. Instead, all criminal investigations or charging decisions of Police employees would be referred. For example, this would include low-level cases where there is an immediate arrest and charge, such as for drink driving by an off-duty officer.
- b. Second, cases would be referred to an independent panel of senior counsel with prosecutorial experience. The panel would be established and administered by Crown Law. Each referred case would be assigned to one member of the panel, who would have responsibility for deciding on prosecution.

133. These differences would mean cases would take longer to resolve due to the panel juggling a large volume of work (80-100 cases per year). This would unnecessarily delay timely access to justice for both the officers and the public at large. The cost of the legal advice per year is estimated as approximately \$404,000. There would be additional costs for Crown Law in administering the panel.

Option 14 – An enhanced status quo (strengthened and more transparent process)

134. Charging decisions would remain with Police, as per the status quo. The existing processes would be strengthened by requiring:

- a. transparency via publishing documents online explaining Police's processes
- b. for cases referred to the panel of senior Police staff at Police National Headquarters (CCAP), expansion of the panel to include an independent barrister or Crown Solicitor as Chair who would make the decision to charge, informed by CCAP's deliberation.

135. The existing CCAP process elevates potential criminal cases away from the local jurisdiction of the employee under investigation. The panel of senior staff ensures a decision is not reliant on individual thinking and includes consideration of the public interest in ensuring trust and confidence in law enforcement. The Inspector-General would maintain the function (currently with the IPCA) of reviewing and providing feedback on decisions.

136. An independent Chair would add an external perspective and enhance the independence of the decision. This would require an additional appropriation (separately from Vote Police) of approximately \$330,000 per year. However, the panel would still be hosted and run by Police. This would undermine its independence, in perception or reality.⁵⁴

⁵³ Notwithstanding section 16 of the Policing Act 2008 that provides for constabulary independence. This is already the expectation in the Solicitor-General Prosecution Guidelines, under operational practice.

⁵⁴ Above n 1, paragraph 627.

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

137. Option 12 (Inspector-General decides if Police must refer cases for an independent decision) best balances the key trade-offs involved. We consider it would enhance the independence of charging decisions given the key differences with the status quo in:
- a. who determines whether legal advice should be sought and from whom (the Inspector-General and Solicitor-General, respectively, instead of Police)
 - b. the status of that advice (legally requiring that Police be bound it).
138. It also would minimise costs by building on the existing prosecution framework. Police already seeks legal advice in most of the cases that would be eligible for referral. Given that the option would build on existing processes, and there is a variable number of cases per year, we expect any costs could be met within baselines.

How do the options compare to the status quo/counterfactual?

139. We adapted the criteria for this issue, given two of the options have no role for the Inspector-General:

- a. **Effective:** The consistency and quality of decision-making for charging decisions relating to Police employees, free from potential bias.
- b. **Efficient:** The cost and timeliness of the process for making a determination following a criminal investigation of a Police employee.
- c. **Independent:** The extent to which the decision-maker is both perceived to be, and is structurally, independent from Police, in order to strengthen public trust.

	Option 11 – Status quo	Option 12 – Certain cases referred to Crown Solicitors	Option 13 – All cases referred to independent panel	Option 14 – Enhanced status quo
Effective	0	++ This option would remove potential bias in cases where there could be risks.	++ This option would remove potential bias in all cases, although the additional cases compared to Option 12 carry little risk.	+ An independent Chair would make decisions, but a risk of undue influence from Police-dominated deliberation would remain.
Efficient	0	0 This option would rely on the existing pool of Crown Solicitors for independent decisions.	-- There would be additional costs for panel administration and inefficiencies from having to consider all cases.	- There would be an additional cost for an independent Chair.
Independent	0	++ This option would address perceived independence in cases where the Inspector-General determines such risks are likely to arise if left with Police.	++ This option would address perceived independence in all cases if left with Police, although the additional cases compared to Option 12 carry little risk.	+ This option would add an independent chair to Police's CCAP to make the decision, but perception risks would remain as it is embedded in internal Police processes.
Overall assessment	0	++	+	+

Key: ++ much better than the status quo; + better than the status quo; 0 about the same as the status quo; - worse than the status quo; -- much worse than the status quo

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the SAR?

140. The Minister's preferred option (Option 12) aligns with the Ministry's preferred option.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

Affected groups	Comment	Impact	Evidence certainty
Additional costs of the preferred option compared to taking no action			
The Inspector-General	The Inspector-General would need to develop processes for deciding when Police should refer cases for an independent charging decision. However, the Inspector-General would already be considering these cases (as a result of notification from Police and/or receipt of complaints).	Low	High
Police	In a few cases, Police may be required to obtain independent legal advice that it would not have under the status quo.	Low	High
Crown Law	The Solicitor-General would have to make arrangements for the process of referring cases to Crown Solicitors or external counsel.	Low	High
Individual Police employees	In some cases, referral may result in charges that may not have been laid under the status quo.	Low	High
Total monetised costs		Low	High
Non-monetised costs		<i>Low</i>	<i>High</i>
Additional benefits of the preferred option compared to taking no action			
Police	The perceived legitimacy of Police decisions may be increased by transferral of charging decisions in cases where its impartiality may be at risk of being questioned.	Low	Medium
Individual Police employees	In some cases, referral could result in no charges that may have been laid under the status quo.	Low	High
Complainants and the general public	There may be more trust and confidence in the impartiality of charging decisions relating to Police employees, particularly in referred cases where no charge is laid, given the independence from Police.	Medium	Medium
Total monetised benefits		N/A	
Non-monetised benefits		<i>Medium</i>	<i>Medium</i>

Section 3: Delivering an option

How will the proposals be implemented?

141. These proposals would be implemented through legislation s9(2)(f)(iv). The IPCA would transition into the Inspector-General model, and its caseload would be transferred to the jurisdiction of the Inspector-General. An implementation team has been set up in the Ministry of Justice to ensure the smooth transition from the IPCA to the Inspector-General and to maintain operational effectiveness.
142. The Inspector-General would be an ICE and would therefore have independence in how it chooses to execute its functions, powers, and duties. However, as an ICE, it would be overseen by a responsible Minister (the Minister of Justice) and would be subject to the reporting and financial obligations that all ICEs must comply with.⁵⁵ This includes planning documents such as a statement of intent and reporting on performance via an annual report. These planning and reporting obligations would ensure that the Inspector-General is accountable to Parliament and the Crown and is the same accountability structure as exists for the IPCA.
143. The Inspector-General would need to be adequately resourced in order to undertake its proactive functions, in particular the own motion power discussed in Issue One, and the educative functions outlined in proposal 3 in **Appendix One**. The shift from being a reactive complaints-based organisation to a proactive one is critical to strengthening oversight of Police and improving the public's trust and confidence in that oversight. These proactive functions cannot happen if the Inspector-General is under-resourced, as it would still be required to dedicate a large proportion of its resourcing to dealing with complaints. The additional ground for taking no action on a complaint (proposal 11, **Appendix One**) would assist the Inspector-General in the management of complaint volumes so it has more capacity to focus on the most serious issues and its new oversight functions. The impact is, however, likely to be relatively small and would not remove the need to resource the new functions.
144. Many of the proposals discussed in this SAR would involve increased information flows between Police and its oversight body. Implementing these changes would require both the Inspector-General and Police to consider how personal information is managed and protected, in line with their obligations under the Privacy Act 2020.
145. For Issue Four (prosecutions of Police), the Inspector-General legislation would set out the function of determining if Police should refer cases for an independent decision, pursuant to arrangements made by the Solicitor-General. The process for referral to a Crown Solicitor or external counsel would be established operationally or through regulations and be administered by Crown Law.
146. Successful implementation of these changes would rely on continuing to work with the IPCA (as it transitions to the Inspector-General model), Police, PSC, and (where applicable) Crown Law.

How will the proposal be monitored, evaluated, and reviewed?

147. The Inspector-General legislation would include a requirement for a statutory review of the Inspector-General to commence once it has been operating for at least three years. Due to the significance of the proposed changes, it is prudent to ensure that these are

⁵⁵ Part 4 of the Crown Entities Act 2004.

working as intended. This would provide an opportunity to review whether the Inspector-General has appropriate powers to perform its oversight role. For example, a review could look at whether the Inspector-General's functions and powers need to be adjusted, whether further powers are necessary or desirable, whether the model is well calibrated and whether the Inspector-General's function in referrals of charging decisions (see Issue Four above) is working as intended. We consider that this requirement would limit the implementation risks associated with the proposals because an opportunity to evaluate the effectiveness of the Inspector-General would be built into the legislation.

148. In addition to a statutory review after three years of operations, the Inspector-General would be subject to the usual performance review and accountability functions as set out in the Crown Entities Act 2004. This would include, for example, providing an annual report that is presented to the House of Representatives and referred to a Select Committee for consideration. These types of reporting requirements help to improve transparency and ensure that all ICEs are held accountable for their performance.
149. As the administering agency for the Inspector-General legislation, the Ministry of Justice has regulatory stewardship responsibilities in respect of the oversight system for Police. Consistent with our stewardship responsibilities, the Ministry of Justice would meet regularly with the Inspector-General and monitor its performance.

Appendix One: Summary of all proposals to strengthen oversight of Police

This appendix sets out the full suite of proposals being progressed to strengthen oversight of Police and establish an Inspector-General of Police.

Strengthening safeguards within Police

Proposal		Source of proposal	Description and comment
1	Create a duty for Police to report potential integrity matters, including those relating to statutory officers, to the Inspector-General	Further analysis	Discussed in detail under Issue Two of this SAR.
2	Police must make a member of the executive-level leadership team responsible for integrity	IPCA McSkimming Report, paragraph 636	A member of the executive-level leadership team must be designated responsibility for Police integrity matters. This would mean that a Tier Two employee or Deputy Police Commissioner would be responsible for integrity within Police.
3	The Inspector-General is resourced to work proactively with Police in a preventative capacity	IPCA McSkimming Report, paragraph 638	This would include, for example, issuing guidelines, setting standards, and an educative function.
4	Amend the Police Code of Conduct to create an obligation to report misconduct	IPCA McSkimming Report, paragraph 634	As at the writing of this SAR, this change is being implemented operationally by Police. As a first step, the Code has been updated to reinforce expectations that all employees are responsible for maintaining integrity and should report suspected misconduct. Police intends to introduce an obligation to report when the required operational arrangements are in place.

Enhancing functions and powers of the Inspector-General

Proposal		Source of proposal	Description and comment
5	The Inspector-General can conduct investigations on its own motion	IPCA McSkimming Report, paragraph 637	Discussed in detail under Issue One of this SAR.
6	The Inspector-General has direct access to Police records and can enter Police premises in the performance of its duties	Further analysis	Discussed in detail under Issue One of this SAR.
7	The mandatory notification requirements for Police are expanded so the Inspector-General is notified of a wider range of incidents	Further analysis	Discussed in detail under Issue Two of this SAR.
8	The Inspector-General is consulted on proposed outcomes in employment investigations and can share information with Police for employment purposes	IPCA McSkimming Report, paragraph 637	Discussed in detail under Issue Three of this SAR.
9	Prosecutions relating to Police personnel	IPCA McSkimming Report, paragraph 636	Discussed in detail under Issue Four of this SAR.
10	Clarify that the Inspector-General can direct Police to launch or defer an investigation	IPCA McSkimming Report, paragraph 627	The IPCA has a range of powers in relation to complaints. While it can direct the Commissioner of Police to undertake certain actions in relation to an investigation, it is unclear whether the IPCA can direct an investigation to be undertaken. Section 19 of the IPCA Act states that the IPCA may direct the Commissioner to <i>reopen</i> an investigation, but there is some ambiguity about whether the IPCA can direct that an investigation is opened in the first place. The current oversight framework provides for the IPCA to direct Police on a range of matters, some of which may prima facie interact (or have the potential to interact) with employment law and the principle of constabulary independence. Clarifying the current law would be consistent with existing powers in this regard.

			To resolve this issue, the legislation would clarify that the Inspector-General has the power to direct the Commissioner to undertake an investigation, under the Inspector-General's oversight, and also to defer an investigation. Deferring an investigation is a minor extension of the power in section 19. It would allow the Inspector-General to instruct Police to pause an employment process or investigation until its own investigation has been completed. The power to pause would only be used in the most serious cases, where an independent investigation is underway and the Inspector-General is concerned about Police's ability or willingness to conduct a robust investigation. It would only be used for the purpose of the Inspector-General completing its own investigation and after consultation between the Inspector-General and the Commissioner of Police. The Inspector-General can lift the pause at any time. The purpose of this power is to ensure Police do not make decisions while the Inspector-General investigation is ongoing. It supports the proposed requirement for Police to provide a copy of the draft employment outcome to the Inspector-General before it is communicated to the employee (see Option 10 in this SAR). In cases prompting an independent Inspector-General investigation, this would mean consultation on a draft employment outcome would take place after the Inspector-General has completed its own investigation and is able to provide full and evidence-based recommendations. This would ensure that Police would have all relevant information before reaching its final decision. The power to defer an investigation minimises duplication of effort, manages the risks of multiple concurrent investigations, supports natural justice, and enhances independence of both the Inspector-General and Police. This power may interact with Police's usual employer and employment decision-making functions, including managing investigations consistently with good faith and fair process obligations. However, we consider that this is justified given the power is intended to be used in serious or exceptional cases where independent oversight would be affected by the absence of such a power. This is consistent with the overarching objective of establishing a stronger Police oversight body.
11	Additional ground for taking no action on a complaint	Further analysis	The Inspector-General would have discretion to take no action on a complaint if the complainant has not made reasonable efforts to resolve the complaint directly with Police. This would be added to the existing grounds for taking no action on a complaint in section 18 of the IPCA Act. The Inspector-General is likely to use this discretion in relation to complaints that are not conduct issues (or are low-level conduct issues), which are suitable for direct resolution between the complainant and Police without involvement of an oversight body. Examples include complaints about traffic infringement notices, the way officers have spoken to people, or Police not investigating low-level dishonesty offending. The purpose of this ground is to assist the Inspector-General in the management of complaint volumes, recognising that IPCA complaint numbers have more than doubled over the past decade. The additional statutory ground, together with clear communications material, should result in more service level type complaints (up to 20 percent of complaints currently received by the IPCA) being channelled directly to Police, with no additional action required by the Inspector-General. This should reduce the time spent by the Inspector-General on administration associated with these complaints, leaving more capacity for it to focus on the most serious issues and oversight activity. The Inspector-General would need to retain visibility of these complaints, which could be achieved by way of a "bulk notification" from Police to the Inspector-General. This may involve the provision of high-level data about volumes, types and resolution, without the need to refer the actual complaints or to enter them in the Inspector-General system and make decisions on them. The Inspector-General would still maintain the discretion to look into any individual case if it saw fit. Other options for recalibrating the complaints function (e.g. raising the threshold on the 'seriousness' of complaints that can be directed to the Inspector-General or requiring all complaints to be first considered by Police) were ruled out because they do not meet the objective of creating the strongest possible oversight body and present risks to public confidence.
12	Concerns about statutory officers are to be elevated to the Commissioner of Police	IPCA McSkimming Report, paragraph 634	A new process would be established for concerns about statutory officers to be elevated to the Commissioner of Police, who would share these with the Inspector-General. The Inspector-General would be required to inform PSC of these concerns. It would also be clarified that the Inspector-General has jurisdiction over statutory officers, which is unclear under the status quo.

Enhancing transparency and accountability

<i>Proposal</i>		<i>Source of proposal</i>	<i>Description and comment</i>
13	The Inspector-General would be subject to the Official Information Act 1982 (OIA)	Further analysis	The Inspector-General would be subject to the OIA, and by extension the Ombudsman in relation to its OIA practices. This would not include information from investigations, and this information would continue to be out of scope. The IPCA is an outlier amongst other ICEs by not being subject to the OIA. Bringing the Inspector-General in scope of the OIA is consistent with other oversight bodies, such as the IGD, and other ICEs, such as the Privacy Commissioner. The expanded functions of the Inspector-General would also change the information landscape for the Inspector-General as compared to the IPCA. Currently, the IPCA's primary function is to deal with complaints, therefore it mostly holds information from investigations (which would continue to be out of scope). The Inspector-General would have enhanced proactive powers and would therefore hold other material that is not part of a complaint investigation. In our view, this provides a clear justification for making the Inspector-General subject to the OIA. The key objective of this work is to create a stronger and more transparent Police oversight body to enhance the integrity of Police, leading to increased public confidence in that oversight and in Police. Information transparency is an important component of achieving that objective, as it allows the public to seek reassurances about how the Inspector-General functions and performs its role. Increasing transparency by making the Inspector-General subject to the OIA is one means of building the public's trust and confidence in the work of the Police oversight body.
14	The Inspector-General is required to issue an annual oversight report	IPCA McSkimming Report, paragraph 639	A new annual oversight report, separate to the annual report required under the Crown Entities Act 2004, would be required to be produced and tabled in Parliament. This report would summarise the Inspector-General's inquiries, investigations and any issues and concerns identified. This report would be provided to the Minister of Justice, as the Minister responsible for the Inspector-General.
15	The Inspector-General may create a public register of concluded investigations and Police responses	Further analysis	The legislation would expressly enable the Inspector-General to publish a public register of concluded investigations, Police responses and whether the Inspector-General's recommendations have been implemented. This would make it clearer how Police is responding to Inspector-General recommendations and enhance transparency.
16	The Inspector-General is required to develop and publish an annual work programme	IPCA McSkimming Report, paragraph 638	The Inspector-General would develop and publish a proactive work programme, in consultation with the Commissioner of Police. It would be publicly shared on its website and provided to Parliament.
17	Power to table a report in Parliament	Further analysis	The IPCA currently has the power to transmit a report to the Commissioner of Police, Attorney-General and Minister of Police if it is not satisfied with actions Police has taken to implement a recommendation. The IPCA Act provides that if the matters raised in that report are not resolved, then the report is provided to the Attorney-General to table in Parliament. This process is being amended slightly to have the report sent to the Minister of Justice, who would share it with the Minister of Police and Attorney-General and would be responsible for tabling it in Parliament.
18	Publish a conflict-of-interest policy	Further analysis	The Inspector-General would be required to develop and publish its conflict-of-interest policy. The IPCA currently employs a number of former Police employees due to their specialised investigation skills, and conflicts of interest are carefully managed. This proposal would ensure that it is clear how the Inspector-General manages potential conflicts of interest.

Appendix Two: Comparison of the IPCA and Inspector-General of Police models

Key: ● Element enabled
● Element exists in limited capacity

The new Inspector-General will have enhanced powers and functions compared to the IPCA:

- Strengthened **independence** – the organisation will be an Independent Crown Entity, led by the Inspector General, and have extended powers to initiate its own investigations.
- In addition to core complaints work, a **proactive and preventive approach** to oversight will be taken - new functions and powers paired with increased funding will allow the Inspector-General to better influence Police conduct and processes.
- There will be **increased transparency and additional mechanisms to hold Police to account** – more public reporting and tracking of Police responses to recommendations will better hold Police to account.

		IPCA		Inspector-General of Police	
Approach	Organisation	●	The IPCA: governed by a Board, comprising a Chair, who must be a judge/former judge, and up to 4 other independent members.	●	The Office of the Inspector-General: governed by a Board comprising the Inspector-General as Chair and up to two Deputies, plus other members.
	Proactive versus reactive	●	Reactive: primarily focused on responding to complaints.	●	Reactive & proactive: in addition to responding to complaints, can initiate investigations and undertake preventative activity.
Functions	Complaint handling	●	Core function to receive and take action in response to complaints.	●	Retains core complaints handling function.
	Investigations	●	Own motion investigations limited to incidents involving death or serious bodily harm. Investigates most serious complaints.	●	New own motion power enabling investigations where there is public interest but no complaint and on Police practice, policy and procedure.
	Assessment and Education	●	No explicit functions for preventative activities.	●	New assessment & educative functions , preventative focus reduces reliance on complaints.
Powers	Complaint handling	●	Broad powers to support exercise of its complaints handling functions.	●	Retains all existing IPCA powers.
	Gathering information	●	Commission of Inquiry powers to summon witnesses and gather evidence.	●	New powers to directly access police records and enter Police premises: alignment to other Inspectors-General.
	Directing Police to undertake an investigation	●	Can direct Police to reopen an investigation or take over a Police investigation. Uncertain whether can direct Police to undertake an investigation once decision not to investigate taken.	●	Explicit power to direct Police to undertake or pause an investigation into alleged misconduct including on criminal and employment matters. Inspector-General is permitted to provide relevant evidence to support recommendations and Police can use in employment investigations.
	Forming opinions and making recommendations	●	Broad powers to form opinions and make recommendations, but actions limited when disagreement with proposed employment outcome of Police investigation.	●	New duty on Police to provide the Inspector-General a draft of the proposed employment outcome before it is communicated to the employee.
	Holding Police to account for implementing recs	●	Can provide a report to A-G if Police response considered inadequate, limited BAU mechanisms to ensure recommendations are acted upon.	●	New explicit ability to publish a register of completed investigations and track Police progress with implementation of recommendations.
	Public reporting	●	Discretion to publish investigation reports.	●	New planning and reporting mechanisms to enhance transparency, including annual oversight report and annual work programme.
	Visibility of integrity issues	●	Limited visibility as mandatory notification relates only to complaints and incidents resulting in death or serious bodily harm.	●	Broadened visibility of serious incidents with expanded mandatory notification requirements on Police.
	Prosecution decisions	●	Is informed of Police's intended charging decisions for most cases involving Police employees and has the opportunity to provide feedback.	●	New power to require Police to refer any case involving Police employees for an independent charging decision as assigned by Crown Law.
Jurisdiction	Statutory officers	●	Oversight of Police employees; unclear position regarding statutory officers.	●	Clear jurisdiction over statutory officers and new duty to notify Public Service Commission of complaints and concerns about them.
Accountability	Legislative requirements	●	Crown Entities Act (CEA) planning and reporting requirements but not subject to OIA.	●	Retains CEA planning and reporting requirements and also subject to OIA.