

Preliminary Paper No 12

THE PROSECUTION OF OFFENCES

An issues paper

The Law Commission welcomes your comments
on this paper and
seeks your response to the questions raised.

These should be forwarded to:

The Director
Law Commission
PO Box 2590
Wellington

by Friday 1 February 1991

November 1990
Wellington, New Zealand

The Law Commission was established by the Law Commission Act 1985 to promote the systematic review, reform and development of the law of New Zealand. Its role is also to advise on ways in which the law can be made as understandable and accessible as practicable.

The Commissioners are:

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Preliminary Paper/Law Commission Wellington, 1990

ISSN 0113-2245

This preliminary paper may be cited as: NZLC PP12

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THE PROSECUTION OF OFFENCES

CRIMINAL PROCEDURE INQUIRY

1 The Law Commission has been asked by the Minister of Justice to examine the law relating to criminal procedure. It is a wide reference which covers both the investigation of criminal activity and the procedures by which the substantive criminal law is applied to individual cases. The only exclusions are questions as to sentencing, the allocation of criminal jurisdiction and appeals. The formal reference appears in the Appendix.

2 The inquiry is being tackled in stages. The first Report of an intended series dealt with pre-trial disclosure of relevant information and with the committal hearing which precedes trial by jury. It was presented to the Minister of Justice on 28 June 1990.

3 The Commission is now examining the prosecution process: how the decisions are made as to whether or not there should be court action following the investigation of alleged offending and the way the cases which reach the court are conducted. At the same time it is beginning work in two other major areas: aspects of police powers and evidence in criminal cases.

Method of inquiry

4 This issues paper is concerned with the first of the topics mentioned in the preceding paragraph: prosecution decisions. Central questions include

- who should bear the authority for decisions to prosecute;
- by whom and on what basis are they made;
- to the extent that it seems proper for some cases to be kept out of the court then by reference to what criteria is this done; and
- by whom are the prosecutions handled when they reach the courts.

5 Clearly the discretionary decisions which have to be made in discharge of these responsibilities are central to the criminal justice system. And they need to be examined at different levels.

6 The paper is published at this early stage of work on the topic for the general purpose of making it as widely known as possible that the Law Commission is examining the processes of prosecution and, more specifically, to invite comment on the issues which are involved. In this regard the paper provides

- a brief description of present practices and methods;
- a short account of what is done in some other jurisdictions;
- a reference to what some may regard as advantages or disadvantages of present New Zealand practice;
- an outline of the diversion concept;
- and finally, some possible alternatives for handling the prosecution services.

The Commission would appreciate advice or comment from interested persons or groups on any of those or related matters. It will be obvious that the paper does not attempt to deal in depth with any issue nor is it intended to indicate a preferred position on any point.

7 If later it should seem useful the Commission will publish more concrete proposals in the form of a paper designed for public discussion and comment. In the meantime steps will be taken to obtain statistical and other practical information concerning the operation of the prosecution system in New Zealand and a survey made of methods followed in some other jurisdictions. By this means it is hoped to have a good basis for arriving at appropriate final conclusions.

8 As in the disclosure and committal exercise the Law Commission has set up a small advisory group to work with it. They are the Honourable Mr Justice Jeffries of the High Court, Principal Youth Court Judge Michael Brown, the Solicitor General Mr John McGrath QC, Mr Mel Smith, Deputy Secretary for Justice, and Mr John Haigh, Barrister of Auckland.

THE PROSECUTION PROCESS IN NEW ZEALAND

9 The initiation of almost all criminal prosecutions and the conduct of most cases that then are dealt with in the District Court are in the hands of one or other of the two principal professional investigatory bodies, the police and the road traffic branch of the Ministry of Transport. But neither group has been given any specific power or responsibility to discharge this function. It is a role which has been assumed as a consequence of the initial investigatory function. Nor is there any formal arrangement for general and independent oversight whether by the Crown Law Office or such an official as a public prosecutor. In this respect New Zealand today is almost unique even among the countries with a criminal justice system based on common law traditions.

10 The basis on which alleged offenders are brought before the courts in New Zealand (by the police and by other investigatory agencies) reflects a right at common law of any private citizen to prosecute. This is now recognised in the statutory provisions governing the commencement of prosecutions set out in the Summary Proceedings Act 1957. It is a right which derives historically from the ancient responsibility of private citizens in England for enforcing the sovereign's "peace" in their various communities.

11 Thus, with the development of a full-time police force in England in the nineteenth century which took over the task of investigating offences and discovering suspects, its members automatically assumed the private citizen's role at the stage of actual prosecution as well. It seems that this was also the case in New Zealand when military and policing functions were finally separated in 1886. It may be that this assumption of duties as prosecutor has left an impression that the police force acts within that area of its responsibilities with some formal or express authority from the Crown. But if there is such a perception it is erroneous and for the reason given in the preceding paragraph.

12 Any associated idea that the police conduct most summary prosecutions in the District Court is also wrong. Figures for 1987 (excluding parking offences) show that of some 245,196 distinct cases only 82,291 were prosecuted by the police. Unfortunately no breakdown of figures is available to show who handled the other 162,905 cases. Figures available on the total number of convictions however reveal that the substantial number of these are the result of action by the Ministry of Transport and are dealt with by its officers. Of total convictions, the proportion which relate to traffic offences has not fallen below 35% since 1982 and reached 48% in 1989. So it is likely that no fewer than 100,000 of the "other" cases in 1987 were conducted by the Ministry of Transport. The remaining 60,000 or so cases

would have been brought by a miscellany of other prosecuting bodies including the Customs, Social Welfare and Inland Revenue Departments, the Ministry of Agriculture and Fisheries as well as local authorities and some quangos.

Discretionary decisions

13 Because there is no general system for the prosecution of offences, each of the various prosecuting agencies acts in accord with its own domestic rules as to the disposal of cases once an offence is thought to have occurred and a suspect identified. The various procedures include, for example, conduct of the prosecution by someone within the particular agency, who may or may not be legally qualified (Police, Ministry of Transport), briefing a Crown solicitor to conduct the trial (Inland Revenue, Customs), briefing a local practitioner (local authorities), passing the matter on to the police for prosecution once the investigation is largely complete (Commercial Affairs Division, Department of Justice) or a combination of these. Another variation is contained in the Serious Fraud Office Act 1990 which provides for the creation of a special Serious Fraud Prosecutors Panel, made up of nominated barristers and solicitors, who are exclusively to conduct prosecutions on behalf of the Director of that Office.

14 It needs to be appreciated, too, that there are decisions which have to be taken in virtually all cases.

- Does the incident merit formal action or might it be possible to take the matter no further?
- Is the case of a kind which requires the early advice of a lawyer or other professional?
- If it is to proceed what form should the action take? Should it be, perhaps, referral for further investigation, or a formal warning or caution, or the laying of a charge?
- If there is to be no charge what appropriate alternatives are available and if there is to be diversion in this sense, what should be the choice?
- If the case is to go to the courts, what offence or offences should be alleged? And should this be initiated by arrest, either with or without a warrant, by some minor offence procedure such as an infringement notice, or by summons?
- Where there is an option, should the charge or charges be dealt with on a summary basis in the District Court or become the subject of an trial on indictment before a judge and jury?

- At any stage are there reasons which justify modifying the charge or some other aspect of the prosecution?

15 All these discretionary decisions obviously are important both for those individuals affected by them and for the justice system itself. They have added significance at a time when attention is beginning to focus upon wider possibilities of dealing justly and fairly with some kinds of offences or with some suspected offenders without getting to the stage of a formal prosecution at all.

PROSECUTION PROCESSES ELSEWHERE

Scotland

16 The pattern in Scotland is different. For many years virtually all prosecutions in the courts have been undertaken by a public prosecutor in the form of Crown counsel or one of the local officers known as procurators fiscal. Today such offences as breaches of the Factories Acts or abuse of the social security legislation are also under the control of the fiscal who is a trained lawyer and for the most part in the full-time employment of the state. Final authority for the whole prosecution service is vested in the Lord Advocate, a law officer with authority akin to that of the Attorney-General in this country.

17 Following investigation there will usually but not always be an initial decision by the police to arrest or charge a suspected offender. But prosecution does not automatically follow. At this stage responsibility passes to the procurator fiscal who thereafter makes all the decisions which will result either in a court appearance or no further action being taken. In practice, if the police consider there is sufficient evidence to justify a prosecution they compile a report containing basic details about the alleged offender and the circumstances of the offence and forward it to the procurator fiscal. Thereupon that officer has a virtually complete discretion to take no further action or to proceed and also as to the charges and the court. Cases which are to be prosecuted on indictment are passed to Crown counsel but otherwise the case is conducted in court by the procurator fiscal.

18 If there is to be no prosecution it seems that quite frequently the procurator fiscal will ask the police to administer a warning to the accused or do so directly, either by letter or personally. Such a warning has been described as "a slightly ambiguous device since the accused may not have admitted his guilt so the presumption of innocence still applies." However, Crown Office Circulars which state that "a warning should not be administered unless the Procurator Fiscal has sufficient evidence to justify taking proceedings" also make it clear that "a warning may be administered whether or not the accused is alleged to have admitted or denied the offence". (Moody and Tombs, Prosecution in the Public Interest, 1982, p 28.)

Canada

19 Comparable arrangements for the control of prosecutions by a public prosecutor acting under the authority of the Attorney-General have operated in Canada for more than a century. There are variations between the different

provinces and territories as to the administrative and employment structures, with some jurisdictions, for example, allowing for prosecutors to be employed by the Crown on a part-time or even an ad hoc basis. But the basic structure is the same. In all jurisdictions the police retain responsibility for investigating crime and for laying the first charges, which (unlike Scotland) means that they take the initial decision to bring a person to court. But thereafter an independent prosecutor takes charge with a discretion probably as wide as that of the Scottish fiscal.

England and Wales

20 Until recently the position in England and Wales was similar to the present system of prosecution in New Zealand. The 43 independent police forces there each discharged a responsibility to initiate prosecutions although none of the statutes which established them made any reference to such a role. The police exercised the right to prosecute of the private citizen.

21 A significant difference however is that since 1879 there has been grafted onto this an Office of Director of Public Prosecutions, whose original duties were broadly, "to institute, undertake, or carry on such criminal proceedings ... and to give such advice and assistance to chief officers of police, clerks to justice and other persons ... as may be for the time prescribed by regulations under this Act, or may be directed in a special case by the Attorney General" (Prosecution of Offences Act 1879). In practice the Director has had several specific powers and duties on top of the general advisory function. The Office was able to take over the conduct of any prosecution (including its discontinuance) and to require certain cases to be referred to it. Although rarely used, these powers created the potential for an important supervisory role. And increasingly the other main source of involvement was through Parliament requiring that the consent of the Director of Public Prosecutions or the Attorney-General be obtained before certain offences could be prosecuted.

22 The position has now changed quite dramatically as a result of recommendations of the Royal Commission on Criminal Procedure which reported in 1981 (the Phillips Commission). It proposed the establishment of a coordinated service of prosecuting solicitors which would cover every police district and be based to a degree on the Canadian models. Thus once a person had been apprehended and charged by the police the conduct of the prosecution would pass to an independent solicitor who would review the initial decision and take responsibility for all further aspects of the prosecution. Reform along these lines was implemented in 1986. It should be mentioned that there have been some

problems with the establishment of the new Crown Prosecution Service, many of them attributable to the speed of implementation and an initial lack of resources. However efforts are now being made to address these.

23 There were a number of reasons for the recommended change. At a practical level there was concern that the prosecution policies of the 43 separate police forces were not sufficiently consistent. Although the Commission recognised the undesirability of rigid uniformity and the need for flexibility, the system did need to provide "safeguards against the response to local circumstances being arbitrary and without justification and explanation." (Report, para 6.12)

24 High acquittal statistics in the Crown Court suggested that too many slender cases were being brought to trial: that the pre-trial screening processes were inadequate. The difficulty for those concerned of always recognising when the public interest would justify a decision against prosecution was a related consideration. In turn all this brought into question the wisdom of leaving to those in charge of investigating offences what were often sensitive or difficult prosecution and charging decisions.

25 There was also the matter of public perception. Was it sensible to expect those who had investigated an offence and become sufficiently convinced of guilt to arrest or charge a suspect to then make a dispassionate decision as to whether it was proper for the prosecution to continue? There were instances of the police continuing with weak cases in the face of legal advice and of indictments including more charges than were necessary, thus creating extra work for the court without significantly affecting the result.

26 The final major reason for the change was the desire to enhance the openness or accountability of the system. At a general level those who are responsible for prosecution decisions should be publicly answerable for their policies. And in particular cases there must be accountability within the agency itself if the head of it is effectively to take responsibility at that general level.

27 Some of those factors may be relevant in the New Zealand context while others are not. Here, for example, there is a single police force (although there is certainly a division of responsibility arising from the regulation of road traffic by several local authorities as well as the Ministry of Transport). In addition the oversight of prosecution decisions may be organised to ensure a proper level of detachment. And it will be necessary to examine the statistics in this country for cases which are discontinued

or result in an acquittal, including an analysis of the reasons for those outcomes, to discover whether or not too many weak cases are being taken to trial. The figures at present available suggest that acquittal rates in New Zealand are not as high as those cited by the Phillips Commission.

Australia

28 A convict population in the early days of the Australian colonies meant that the traditional private prosecution system was inappropriate. So there has always been some public official responsible for the prosecution of offences in the states of New South Wales and Victoria at least. In New South Wales until recently the Solicitor for Public Prosecutions, part of the Attorney-General's Department, acted both as Registrar of the District Court in its criminal jurisdiction (and assisted the Registrar of the Supreme Court) and as solicitor for the prosecution in indictable cases. In this latter role that officer, along with the Crown Prosecutor, became responsible for the prosecution once an accused person had been committed for sentence or trial. And in Victoria an independent officer known as the Prosecutor for the Queen acted as the final arbiter in deciding whether an accused person was to be placed before the court on a particular charge.

29 Within the last decade both those state jurisdictions and that of the Commonwealth of Australia have reformed this stage of the process by moving the day to day control of prosecutions to a newly-created and independent Director of Public Prosecutions. In each instance the police retain authority to bring a suspected offender into the criminal justice system subject to some oversight by the Director of Public Prosecutions. But that officer has virtually an absolute discretion as to all other prosecution decisions, being accountable only to the Attorney-General or Parliament.

United States of America

30 From a very early stage in the United States the system was modelled around an elected District Attorney, independent of both the police and the judiciary. The basic function of this office has been described as one which would bridge the gap between these two institutions by exercising an independent judgement concerning the need to institute proceedings. In general the District Attorney cannot direct the police in the carrying out of their duties but, in contrast to public prosecutors elsewhere, does have some involvement in the investigation of crime, particularly crime of a specialist nature.

EARLIER NEW ZEALAND COMMENT

31 It will be seen that the independence of the police in New Zealand when exercising prosecutorial responsibility is uncommon, to say the least, among the countries with a similar adversarial system of criminal procedure. However, the initial question will be - is the present system of prosecution in New Zealand functioning adequately? If the answer is yes, then some will ask whether there is any need to consider possible change. But some questions are raised from time to time and they need to be considered and answered.

32 Before he became a judge of the High Court and while still Solicitor-General Mr R C Savage made the following comments when discussing a report then recently published in England: "The Prosecution Process in England and Wales, A Report by 'Justice'", [1970] Crim LR 668.

The "Justice" report stresses the need to have a professionally qualified person responsible for the conduct of the prosecution. There is, I think, much weight in this. The position in New Zealand is that prosecutions are conducted by professionally qualified persons in all cases in the Supreme Court and in the Magistrates Court, most Government Departmental prosecutions and local body prosecutions but not in Transport Department prosecutions and Police prosecutions. And they of course make up most of the prosecutions. It is perhaps strange that this large part of the legal process, which affects the liberty and pockets of people more directly than most branches of the law is left to lay prosecutors. Does it affect the quality of justice administered? This is a difficult question to answer.

33 However, Mr Savage then indicated his own feeling concerning the matter and he did so by reference to public perception:

In a great number of cases there are pleas of guilty or no appearance by the defendants. Clearly a lay prosecutor can fairly and effectively deal with those cases and present the facts to the Court. But what of the defended cases? It would be better, one might think, if all defended cases were to be conducted by qualified lawyers on the general grounds that the conduct of litigation is what they are specially qualified and trained to do. Apart from other considerations, and there are several, justice would look as if it were being more independently administered if the prosecutor were not a police officer or traffic officer. The private citizen can scarcely be blamed for thinking that the prosecution will not be conducted with as much impartiality or detachment as it ought, if the person conducting the prosecution is also a policeman or

traffic officer and so a member of the Service whose duty it is to detect the offence. Indeed in the case of traffic officers they may well also be the principal witnesses.

34 He then turned to the possible alternative of a professional prosecutorial service of the kind which is now to be found in most of the common law jurisdictions:

It is a practical question of how could professionally qualified prosecutors be arranged. It is done in some countries. Scotland is an example within the British type legal systems. So also is Ontario. There is also the question of expense. It is cheaper to have police officers and traffic officers do that work than to pay lawyers. I believe, though, that steps should be taken to try and achieve it and that it could be substantially achieved.

35 A similar point was made more recently by M Jackson in The Maori and the Criminal Justice System: He Whaipanga Hou - A New Perspective (Part 2), Department of Justice, 1988, p 133-4. In examining the discriminatory effects of the current criminal justice system he notes that

The decisions they make to charge an offender and to proceed with a specified court prosecution are frequently discretionary ones hidden from public scrutiny. They depend very much upon

"... the police officer concerned and possibly on his assessment of evidence, the culpability and character of the alleged offender, and the desired outcome of the case." (Bradbury, J "Violent Offending and Drinking Patterns" Victoria Institute of Criminology, 1984, p 20)

... The concept of equality between the prosecution and the defence, which would support the burden of proof argument, is diminished by the dominant role of the police in the whole judicial process. They arrest, prosecute, and present evidence with a degree of resource backup unavailable to the defendant.

OTHER CONSIDERATIONS

Pre-trial disclosure

36 One of the initial reasons for the early examination of prosecution responsibilities by the Law Commission arose from its work on pre-trial disclosure. This is but one illustration of the wider point that the present structure acts as a significant barrier to other possible improvements to the criminal justice system.

37 As was discussed in Law Commission Report 14, there are a number of practical problems which can at present affect the discovery of information in criminal cases, one of these being the lack of coordination or consistency of practice among the various agencies involved in prosecution. There would be clear advantages in having a central body able to take responsibility for ensuring that effective disclosure occurred.

Diversion

38 A different reason for examining the prosecution process is the increasing attention being given to the value of avoiding the formal prosecution of people (with the consequential use of conventional sanctions in the event of conviction) wherever this might seem proper. There are several distinct causes for this interest.

39 First, there is the practical value of finding publicly acceptable ways of relieving some of the pressures upon the justice system brought about by the growing volume of cases which it is being expected to handle. The Commission has already given some consideration to this problem in the course of its work on the structure of the courts.

40 Of wider significance is the fact that for many people the mere fact of prosecution involves a good deal of strain and even hardship. By itself the punitive effect of a prosecution may be out of proportion to the moral blameworthiness of the alleged conduct. A different but important consideration relates to the wisdom of avoiding the use of the sanction of an actual first conviction for as long as possible. To what extent might it be possible to keep out of the courts first offenders involved in certain classes of offences? Or some who may be regarded as "marginal" offenders, particularly the young?

41 There are other arguments which turn upon the need to find methods of overcoming the worrying problem that Maori make up a disproportionate number of those being prosecuted and sentenced.

42 All this has led in recent years to an approach which has been given the convenient shorthand description of the "diversion" of offenders. And already, of their own initiative and for some time, the police have been operating an informal scheme which they feel has had some success.

43 Under this scheme the police prosecutor and officer in charge of the case consider at an early stage whether to divert an offender. If this option is taken up, the case is adjourned, usually at the first appearance in court, until the conditions of the diversion have been fulfilled. The police then offer no evidence in court and the prosecution is dismissed.

44 The police criteria for diverting a particular case are that

- the person should be a first offender - or some special circumstance should exist;
- the offence should not be a serious one;
- the offender must admit guilt, show remorse and be prepared to make reparation;
- both the victim and the officer in charge of the case should agree to the diversion;
- the offender must also agree to be diverted.

45 Where it is agreed that an offender be dealt with under the diversion scheme the officer in charge of prosecutions then has a discretion as to the conditions to be imposed. Common alternatives include simply giving a stern warning and advice that further offending will be prosecuted or requiring the offender to do any or a combination of apologising to the victim and possibly also the officer in charge of the case, making reparation or paying compensation to the victim, attending professional counselling, or carrying out community work or making a donation to some charity.

46 Similar developments are taking place in most other jurisdictions but there is still debate both here and overseas as to the propriety of what is in effect the imposition of a penalty without a judicial finding of guilt. In New Zealand questions arise about

- the proper limits of police discretion;
- the possible need for greater accountability and more effective oversight;
- the criteria which should guide the exercise of the discretion;

- what should be required of the diverted offender;
- and how and to what extent the Maori community might be able to assist.

47 There is too the wider issue of whether such a system ought to be controlled independently of those who had been obliged to conduct the investigations. All these are matters which concern and deserve the comment of the general public.

Committal for trial

48 In Report 14 (paras 131-133) the Commission remarked upon the absence of an autonomous prosecuting body able to make an independent evaluation of the strength of the prosecution case before proceeding to trial; and also upon what seemed to be the decreasing utility of the preliminary hearing for this purpose as well as for obtaining disclosure of the prosecution evidence. It should be noted that the involvement of Crown Solicitors does provide some additional protection in relation to the first of these purposes, as they determine the content of the indictment independently of the police and on the evidence given at the preliminary hearing. The Commission would welcome any comment as to the effectiveness of the preliminary hearing as a mechanism for screening out weak cases and whether something better might be put in its place.

Administration

49 A perennial problem affecting the criminal justice system is the amount of delay and wasted court time which can be involved. In line with developments overseas the courts of their own accord have been developing pre-trial conference and call-over systems as part of an effort to give some order and discipline to the pre-trial process. These initiatives have met with mixed success. For example pre-trial conferences are reported to be operating well in Otahuhu but have recently been cancelled in Auckland. In the context of this examination of those early stages of the process, what further improvement is thought to be possible?

50 At present arrangements for the collection of statistical information concerning the prosecution process seem inadequate, although there are moves to remedy this. In particular, the current dearth of information concerning the progress of cases before trial hampers ongoing monitoring of the system's performance. The Law Commission would appreciate suggestions as to specific surveys which might be helpful, both of a one-off nature and on an ongoing basis.

FUTURE DIRECTIONS

51 No justice system is static. And already developments in this area are taking place in the New Zealand system. But there are questions (some of which have already been adverted to) which need to be considered if the various developments are to be coherent, and operate consistently.

- Is it possible to define broad principles upon which decisions should be made to prosecute or not to prosecute? And if so, what are they?
- How well are the appropriate principles applied at present by the various agencies (in particular the police and the Ministry of Transport)?
- Is it desirable in the public interest or for reasons of public perception to separate the investigatory function of the agencies from their present prosecutorial responsibilities?
- If so what should be the form of any changes?
- Should the answers to these general issues be affected by a move to the increased "diversion" of offenders?

52 There appear to be several choices for New Zealand. At a very general level they could include

- to leave in place the present system of prosecution by the investigatory agencies;
- to set up a professional prosecution service able to control and be responsible for all prosecution decisions and for the conduct of all cases; or
- to build in some way on the existing network of local Crown solicitors in order to establish a coordinated system of regional public prosecutors with responsibility for each case once a suspected offender had been charged but able where appropriate to leave the conduct of summary prosecutions to the police or officers of the Ministry of Transport.

There is much scope for variation and overlap within and between these options. And there may be others.

53 The Commission welcomes comment on any of the points raised by this paper or on any related matter. Inquiries can be directed to Nicola White ((04) 733-453) and submissions should be forwarded by Friday 1 February 1991 to:

The Director
Law Commission
PO Box 2590
Wellington.

APPENDIX

TERMS OF REFERENCE

Purposes:

- (1) To ensure that the law relating to criminal investigations and procedures conforms to the obligations of New Zealand under the International Covenant on Civil and Political Rights and to the principles of the Treaty of Waitangi.
- (2) To devise a system of criminal procedure for New Zealand that will ensure the fair trial of persons accused of offences, protect the rights and freedoms of all persons suspected or accused of offences, and provide effective and efficient procedures for the investigation and prosecution of offences and the hearing of criminal cases.

With these purposes in mind the Law Commission is asked to examine the law, structures and practices governing the procedure in criminal cases from the time an offence is suspected to have been committed until the offender is convicted, including but not limited to

- powers of entry, search and arrest,
- diversion - principles and procedures,
- decisions to prosecute and by whom they should be made,
- the rights of suspects and Police powers in relation to suspects,
- the division of offences into summary and indictable offences,
- preliminary hearings and criminal discovery,
- onus of proof,
- evidence in sexual and child abuse and other special cases,
- payment of costs to acquitted persons,

and to make recommendations accordingly.

But the Commission is not asked in this reference to consider questions of sentencing or to reconsider questions of what courts or other judicial bodies should exercise criminal jurisdiction, or of appeals.



Other Law Commission publications:

REPORT SERIES

- NZLC R1 Imperial Legislation in Force in New Zealand (1987)
- NZLC R2 Annual Reports for the years ended 31 March 1986 and 31 March 1987 (1987)
- NZLC R3 The Accident Compensation Scheme (Interim Report on Aspects of Funding) (1987)
- NZLC R4 Personal Injury: Prevention and Recovery (Report on the Accident Compensation Scheme) (1988)
- NZLC R5 Annual Report 1988 (1988)
- NZLC R6 Limitation Defences in Civil Proceedings (1988)
- NZLC R7 The Structure of the Courts (1989)
- NZLC R8 A Personal Property Securities Act for New Zealand (1989)
- NZLC R9 Company Law: Reform and Restatement (1989)
- NZLC R10 Annual Report 1989 (1989)
- NZLC R11 Legislation and its Interpretation: Statutory Publication Bill (1989)
- NZLC R12 First Report on Emergencies: use of the armed forces (1990)
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- NZLC R14 Criminal Procedure: Part one, Disclosure and Committal (1990)
- NZLC R15 Annual Report 1990 (1990)
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- NZLC PP6 Reform of Personal Property Security Law (report by Prof J H Farrar and M A O'Regan) (1988)
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- NZLC PP10 Hearsay Evidence (options paper) (1989)
- NZLC PP11 "Unfair" Contracts (discussion paper) (1990)

