ibac independent broad-based anti-corruption commission
Victoria

Police misconduct issues and risks associated with Victoria Police's Critical Incident Response Team

Special report

October 2022

Acknowledgement

IBAC acknowledges the Traditional Custodians of the lands on which we work and pays respect to Elders past, present and emerging. We recognise and celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of Victoria.

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Contents

Abbreviations 5

1 Overview, main findings, and recommendations 6

1.1 Introduction 7
1.2 Main misconduct risks and issues 10
1.3 Recommendations 13

2 Context 15

2.1 Overview of CIRT 16
2.2 Operating environment 18
2.3 Complaints about CIRT 21

3 IBAC investigations and other incidents involving CIRT officers 23

3.1 Inflation Nightclub incident 24
3.2 Operation Lynd 25
3.3 Operation Wingan 26
3.4 Other incidents 27

4 Misconduct risks and issues 28

4.1 Use of force 29
4.2 Risk assessment and planning in response to critical incidents 36
4.3 Governance and compliance 39
4.4 CIRT's culture 46

5 Conclusions 52

Appendix 1: Methodology 55

Appendix 2: Natural justice requirements and responses 56

Appendix 3: Previous recommendations 58

Letter of transmittal

To

The Honourable President of the Legislative Council

and

The Honourable Speaker of the Legislative Assembly

Special report on police misconduct issues and risks associated with Victoria Police's Critical Incident Response Team

In accordance with section 162(1) of the *Independent Broad-based Anti-corruption Commission Act 2011*, I present IBAC's report on police misconduct issues and risks associated with Victoria Police's Critical Incident Response Team.

IBAC's findings and recommendations are contained in this report.

Yours sincerely



The Hon Robert Redlich AM KC
Commissioner

Abbreviations

Abbreviation	Explanation
BWC	body-worn camera
CED	conducted energy device (Taser)
CIR	critical incident review
CIRT	Critical Incident Response Team
CIU	Criminal Investigation Unit
DSII	death or serious injury or illness
ESTA	Emergency Services Telecommunications Authority (responds to triple-zero calls)
IBAC	Independent Broad-based Anti-corruption Commission
ICCS	Incident Command and Control System
LGBTIQ	lesbian, gay, bisexual, transexual, intersex and queer
OC	oleoresin capsicum spray (pepper spray)
OSTT	operational safety and tactics training
PRIME	Police Responding in Mental Health Events
PSC	Professional Standards Command
PSO	protective service officer
ROCSID	Register of Complaints and Serious Incident Database
TOM	Tactical Operations Model
UOF	use of force
VEOHRC	Victorian Equal Opportunity and Human Rights Commission

1 Overview, main findings, and recommendations

1 Overview, main findings, and recommendations

1.1 Introduction

Victoria Police serves the Victorian community by upholding the law to promote a safe, secure and orderly society.[1] It provides many services, including responding to calls for assistance in matters of personal and public safety, emergencies and serious incidents.[2]

Victoria Police's Critical Incident Response Team (CIRT) comprises approximately 185 sworn officers, who take a leading role in responding to high-risk incidents that are beyond the scope, experience and skill level of general duties police, but that do not meet the criteria for involving the Special Operations Group.[3] Such incidents regularly involve significant threats to the safety of the individuals involved, the responding police officers, and other members of the public. Through its specially trained and equipped officers, CIRT is responsible for helping to resolve such incidents lawfully and safely.

Despite the difficult nature of CIRT's work, these officers are expected to uphold Victoria Police's values, which include safety, integrity, respect and professionalism when interacting with members of the public and each other.[4]

As part of its role in overseeing police, the Independent Broad-based Anti-corruption Commission (IBAC) receives complaints and notifications about police misconduct and corruption, and determines whether such complaints and notifications will be investigated by IBAC, referred back to Victoria Police, or dismissed. IBAC can also conduct 'own-motion' investigations, where it can investigate without having received a complaint, and can review or oversee selected matters investigated by Victoria Police.

Through its work overseeing Victoria Police, IBAC has identified a number of incidents involving CIRT officers that raise misconduct issues and risks. This special report outlines those incidents, the misconduct risks and issues that have been identified, the recommendations that IBAC has made to Victoria Police in response, and the work that Victoria Police has undertaken to date to improve practices in CIRT.

The misconduct risks and issues identified in the report relate to reporting the use of force, undertaking adequate risk assessments, communication when responding to incidents, and acting consistently with human rights.

Some issues, such as reporting the use of force, are relevant not only to CIRT but across Victoria Police more broadly. Non-compliance with reporting obligations limits the capacity to properly review the way officers respond to incidents and identify opportunities for improvement or matters to be dealt with.

Adequate risk assessments, appropriate deployment practices, and consideration of human rights are important elements in determining whether officers' actions during an incident are appropriate. They also reduce the risk of officers acting in ways that place people at risk of harm.

This report makes further recommendations to Victoria Police to help deal with ongoing risks and to promote integrity throughout CIRT and Victoria Police.

1 *Victoria Police Act 2013*, section 8.
2 Victoria Police 2020, *Annual Report 2019–2020*, p 5, **www.police.vic.gov.au/annual-report**.
3 The Special Operations Group is Victoria Police's elite tactical unit responsible for counter-terrorism response, as well as responding to unplanned operational critical incidents such as sieges and siege hostage situations, armed offender tasks and bomb response incidents. The Special Operations Group also assists other police units in planned operations involving apprehension of dangerous suspects. General duties officers are responsible for a range of duties, including dealing with community safety concerns, attending accidents, enforcing traffic law and investigating crimes.
4 Other Victoria Police values include leadership, support and flexibility.

1.1.1 Reason for this report

Since 2017, IBAC's investigations, research, reviews, complaints received and other work in overseeing police have identified police misconduct issues and risks in incidents involving CIRT. These include the ways in which CIRT officers:

- report their use of force
- assess risk
- decide when to deploy, or to attend an incident.

IBAC has also identified gaps in CIRT's procedures and training for important functions, such as how officers uphold their human rights obligations, and manage arrests and people in custody. IBAC also holds concerns regarding the lack of gender diversity in CIRT, and how this can affect its work.

These concerns have arisen in different contexts, including three incidents that are the focus of this report: the Inflation Nightclub incident and IBAC's Operations Lynd and Wingan. The report also draws on matters identified in the Coroner's investigation into the January 2017 Bourke Street incident and internal Victoria Police investigations involving CIRT officers. Together, these provide important case studies of police misconduct risks facing CIRT.[5]

1.1.2 Inflation Nightclub incident

On 8 July 2017, CIRT officers responded to a report that a male patron was in possession of a handgun during an event at the Inflation Nightclub in Melbourne's central business district. Before CIRT officers entered the nightclub, a security guard employed at the nightclub advised CIRT officers that he was satisfied that the male patron was carrying a plastic imitation handgun. The nightclub was hosting a fancy-dress event and the imitation handgun formed part of the male's costume. During the arrest process CIRT officers shot and injured the man and his female companion. The handgun was later confirmed to be an imitation handgun.

The incident was investigated by Victoria Police's Armed Crime Squad, overseen by Victoria Police's Professional Standards Command (PSC) and IBAC.[6] Victoria Police found that the CIRT officers fired their weapons in self-defence, and that the police response to the incident was reasonable and consistent with organisational and community expectations. However, IBAC reviewed Victoria Police's investigation and concluded that Victoria Police failed to properly examine and review the conduct of police officers involved in the incident, focusing instead on the actions of the patrons.[7]

A subsequent (December 2019) internal Victoria Police review of the incident found that the decision to approach and arrest the male patron was unsafe and tactically unsound, and that safer and less forceful options were available.[8] The review also concluded that there was a lack of clarity regarding the roles and responsibilities of CIRT and other responding officers, as well as poor governance and compliance with police policy.

5 The methodology for the present report is described in Appendix 1.
6 Because of its limited resources, IBAC exercised its referral power in this instance. IBAC also concluded that Victoria Police had the necessary expertise to undertake the investigation.
7 IBAC 2019, 'Deficiencies in Victoria Police review of Inflation night club shooting' (media release, 14 November), **www.ibac.vic.gov.au/media-releases/article/deficiencies-in-victoria-police-review-of-inflation-night-club-shooting**.
8 Victoria Police's Safety, People and Culture Committee did not accept the wording of this finding. Instead, it believed that it was a failure to consider and work through other available options.

1.1.3 Operation Lynd

In May 2019, IBAC was notified by Victoria Police that it had received a complaint about the conduct of Victoria Police officers at the Hares & Hyenas bookshop in Fitzroy. Consequently, IBAC commenced Operation Lynd to investigate the conduct of Victoria Police officers, including CIRT officers, following the arrest of Person E outside the bookshop. During the arrest, Person E sustained serious injuries to their arm and shoulder.

IBAC found that CIRT officers lawfully entered the bookshop on the reasonable belief that an armed offender, suspected of having committed violent offences, had escaped into the premises. Although it was determined later that Person E was not the offender, IBAC found that the arrest was lawful and that the force used by CIRT officers was not disproportionate for the purpose of making the arrest. However, IBAC found that the officers involved in the incident acted inconsistently with the Victorian Charter of Human Rights and Responsibilities (the Charter). They did not advise Person E of the reason for their arrest or make them aware of their rights.

IBAC also identified a number of misconduct risks and vulnerabilities relating to CIRT, including:

- a lack of a custody handover procedure for individuals in CIRT custody
- poor understanding of CIRT's deployment policy
- poor recording of the use of force following the incident.

1.1.4 Operation Wingan

In September 2020, IBAC began Operation Wingan,[9] following a complaint from a member of the public about the treatment of Person A during their apprehension by Victoria Police officers, including CIRT officers, in Epping. IBAC investigated whether the police officers involved in Person A's apprehension engaged in any misconduct.

IBAC found that CIRT officers and a general duties officer used force to apprehend Person A, and that this force was proportionate in the circumstances. However, IBAC also found that Victoria Police officers acted inconsistently with Person A's human rights under the Charter, by not informing Person A of the reason for their apprehension at the time or shortly after they were detained.

IBAC also identified several misconduct risks and vulnerabilities relating to the CIRT officers involved, including:

- poor understanding and application of CIRT's deployment policy
- a failure to turn on their body-worn cameras
- concerns with the provision of aftercare for people affected by OC spray (oleoresin capsicum spray, also known as pepper spray)
- incomplete and inconsistent recording of the force used
- opportunities to improve mental health awareness training.

9 Under the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) (the IBAC Act), section 64(1)(a).

1.2 Main misconduct risks and issues

1.2.1 Reporting the use of force

CIRT officers have repeatedly failed to accurately and comprehensively report their use of force. This shortcoming is due in part to a lack of training and supervision, and to the complexity of Victoria Police's reporting processes. Inadequate reporting reduces the transparency of CIRT's operational use of force, and prevents improvements from being identified to limit the use and misuse of force.

In Operations Lynd and Wingan, officers reported the use of force inaccurately and incompletely, and lacked training and understanding about completing use-of-force forms. Similar problems have been identified by IBAC in other non-CIRT-related investigations, such as Operations Boyne and Durack.[10]

Following recommendations made in Operation Lynd, CIRT reported to IBAC in November 2020 that it had updated its policies and training for reporting the use of force.

In July 2022, Victoria Police advised that it was developing a new use-of-force database, which it anticipated would be operational by September 2023.

Inadequacies in reporting the use of force reduce the accuracy of Victoria Police's data on the use of force. This in turn can hinder IBAC's ability to oversee such matters effectively.

1.2.2 Risk assessment and planning processes

Inadequate processes for assessing risk can increase the likelihood of CIRT officers using force in ways that result in serious injuries to members of the public, as demonstrated in the Inflation Nightclub incident.

In response to the Inflation Nightclub incident, Victoria Police undertook an internal review to identify opportunities to improve police responses to similar incidents in the future. The review panel found that a failure to undertake appropriate risk assessments led to the unsafe action of CIRT officers confronting and shooting a person in Inflation Nightclub, despite credible information that the person was in possession of an imitation handgun only, and a range of lower-risk options being available for responding to the incident.

Lack of appropriate training and capability in assessing risk presents an inappropriate use-of-force risk. This risk is relevant to all operational police, but particularly to CIRT, due to the nature of the incidents to which CIRT responds and the additional weapons to which CIRT officers have access and regularly use.

Victoria Police's internal review found that CIRT officers had not received adequate training in assessing and managing risk. CIRT has since reviewed and updated its Standard Operating Procedures and its training, particularly in relation to planning, risk assessments and communication between CIRT officers with decision-making responsibilities.

10 Operation Boyne was an IBAC investigation into allegations that a Victoria Police officer used excessive force during the arrest of an individual following an armed robbery in February 2016. IBAC substantiated the allegations against the officer. Operation Durack was an IBAC investigation into allegations that a Victoria Police officer assaulted a 15-year-old boy with a police baton in January 2018. The officer plead guilty and was sentenced in August 2021. In these investigations, officers either failed to complete a use-of-force form, or did not complete the form accurately.

1.2.3 CIRT deployment

Failures by CIRT officers to communicate their intentions to respond to incidents to other Victoria Police officers who have already responded can impede planned responses and risk assessments that those other officers may have put in place.

IBAC identified in Operations Lynd and Wingan that the CIRT officers failed to communicate their intentions to attend the incidents to the officer in charge or the other responding officers, which had the potential to impact the effectiveness of any plan already in place to resolve the incident.

In Operation Lynd, CIRT officers referred to 'assisting' general duties officers, rather than requested and approved deployments. CIRT officers should respond to incidents if or when they become aware of an incident in which their assistance could be required. However, Victoria Police does not have a policy regarding CIRT assists which can lead to confusion and lack of clarity regarding roles at incidents, impacting risk assessments and response plans. This can also have implications for arrest and handover procedures.[11]

1.2.4 Human rights, arrest and custody procedures

IBAC found instances of CIRT officers acting inconsistently with the Charter, including a failure to advise people of their rights and inform them of the reason for their arrest and detention, and not carrying water with them to deliver appropriate aftercare to people affected by OC spray.

IBAC found that, in Operations Lynd and Wingan, officers – including CIRT officers – failed to advise Person E and Person A of the reason for their detention as required under section 21(4) of the Charter. Section 21(4) of the Charter requires that a person who is arrested or detained must be informed of the reason for their arrest or detention.

In Operation Lynd, IBAC found that CIRT lacked a handover procedure for individuals in its custody, and that CIRT officers did not understand their arrest and handover responsibilities, placing them at risk of acting inconsistently with the human rights of persons in their custody. CIRT has since implemented a handover procedure, following IBAC's recommendation arising from Operation Lynd.

Operation Wingan found that Victoria Police did not require police vehicles, including CIRT vehicles, to carry water for OC spray aftercare. Instead, officers relied on access to mains water or their own drinking water. This presented risks to both human rights and occupational health and safety. In March 2022, Victoria Police advised that CIRT vehicles were now equipped with water for OC spray aftercare, and that it was still determining whether to equip other operational police vehicles.

11 Victoria Police told IBAC that it is updating its specialist support policy to record CIRT 'assists'. This may allay some of IBAC's concerns, but the policy update was not complete at the time of reporting.

1.2.5 CIRT's culture

Following Operations Lynd and Wingan, Victorian community stakeholders raised concerns with IBAC regarding CIRT's culture. These included the consequences of CIRT members reflecting a hypermasculine culture, and CIRT members not being sensitive to historical relationships between police and the LGBTIQ community. For the purposes of this special report, IBAC has focused on cultural issues associated with the lack of gender diversity in CIRT, due to limited other quantifiable data related to CIRT's make-up and culture and limits on IBAC's jurisdiction.

More than 90 per cent of CIRT officers are men. This lack of gender diversity does not reflect Victoria Police's broader workforce or the Victorian community, and can consequently affect the way in which CIRT is perceived by members of the community. Gender inequality in Victoria Police workplaces also increases the risk of workplace harm, including sex discrimination and sexual harassment.

The Victorian Equal Opportunity and Human Rights Commission's (VEOHRC) 2019 report *Proud, Visible, Safe* examined workplace harm experienced by LGBTIQ Victoria Police employees. While VEOHRC's report did not focus on or provide findings about CIRT, it did discuss how hypermasculine and heteronormative cultures can lead to workplace harm. Such cultures may also affect CIRT's relationships and interactions with LGBTIQ community members and other community groups when CIRT responds to incidents.

Between 2014 and 2019, VEOHRC reviewed sex discrimination and sexual harassment, including predatory behaviour, in Victoria Police. The subsequent reports emphasised that gender diversity in decision-making roles leads to greater transparency and improved ethical orientation.[12] In response to the VEOHRC review, CIRT has been working to recruit more women, including by reviewing role requirements and working with Victoria Police's Gender Equality and Inclusion Division to identify the causes of CIRT's significant gender imbalance, and how they can be remedied.

12 Victorian Equal Opportunity and Human Rights Commission (VEOHRC) 2015, *Independent Review into Sex Discrimination and Sexual Harassment, Including Predatory Behaviour, in Victoria Police: Phase One Report*, p 17, **www.humanrights.vic.gov.au/static/c6047d1e6cb4d96861b32cd9295691cd/Resource-Independent_Review_Victoria_Police-Phase_1-2015.pdf**.

1.3 Recommendations

Following Operations Lynd and Wingan, IBAC made a range of recommendations to Victoria Police to reduce the police misconduct vulnerabilities identified.[13] They included recommendations on:

- reporting the use of force, including that Victoria Police work to make sure that reporting is appropriate, accurate, timely and consistent, and that CIRT officers comply with their obligations
- human rights, including establishing a formal custody handover procedure for CIRT, and that OC spray use and aftercare are consistent with officers' obligations under the Charter
- taking action against officers involved in these incidents, to make sure that their conduct during the incidents was dealt with.

Between August 2020 and March 2022, Victoria Police responded to IBAC's recommendations.[14]

IBAC is satisfied that Victoria Police has implemented the recommendations made in Operations Lynd and Wingan, except for the Operation Wingan recommendation on OC spray aftercare. IBAC has asked Victoria Police to provide a further update on this, as IBAC remains concerned that the current arrangements for OC spray aftercare are inadequate – both for members of the public and for members of Victoria Police.

Following Victoria Police's investigation into the Inflation Nightclub incident, IBAC wrote to Victoria Police in May 2019 to express its concerns about the investigation, including that:

- the investigation focused on the conduct of the civilians and not the conduct of the officers involved
- an internal critical incident review as required by the Victoria Police Manual had not been conducted
- it was unclear what evidence was used to determine that the actions of the officers were justifiable and lawful.

A list of IBAC's recommendations to CIRT, as well as its concerns about the Inflation Nightclub incident investigation, and Victoria Police's responses to these recommendations and concerns, is provided in Appendix 3 of this report.

In addition to the recommendations already made to Victoria Police, IBAC believes that there are further opportunities for Victoria Police to reduce the risk of misconduct by CIRT officers. Pursuant to section 159(1) of the IBAC Act, IBAC recommends that:

Recommendation 1

Within six months Victoria Police reports to IBAC on how the new use-of-force database will:

- improve the accuracy of use-of-force reports
- improve compliance by officers to submit reports after each incident
- be audited to make sure that officers complete use-of-force forms when required, and that they complete them accurately
- be used to identify trends in officers using force against members of the public, and officers at risk of using excessive force.

Recommendation 2

Within 12 months Victoria Police reports to IBAC on what new steps it is taking in relation to the use-of-force database to make sure that:

- officers understand what constitutes force and what must be reported
- it overcomes the risk of inaccurate or incomplete reporting when an incident is attended by more than one police unit.

13 An internal Victoria Police review panel also made recommendations following the Inflation Nightclub incident.

14 IBAC 2020, *Operation Lynd – Investigation Summary: Response from Victoria Police,* viewed 12 April 2022, **https://www.ibac.vic.gov.au/publications-and-resources/article/investigation-summary---operation-lynd**. Victoria Police's response to Operation Wingan is not yet finalised.

Recommendation 3

Within 12 months Victoria Police, as part of the development of the new use-of-force database, consults with other Australian police agencies and any other agencies who report the use of force electronically, to identify barriers or risks to accurate and complete reporting, and that Victoria Police work to remove these barriers or risks. IBAC requests that, when Victoria Police responds to this recommendation, the response includes:

- a list of the agencies that Victoria Police has consulted
- the barriers or risks to accurate and complete reporting that the consulted agency identified
- the steps that Victoria Police has taken or intends to take to remove each risk and barrier.

Recommendation 4

Within six months Victoria Police strengthens CIRT's method for assessing operational risk, to remove the vulnerabilities highlighted in this report, including:

- developing risk assessment principles for CIRT to standardise approaches to risk management as suggested in Victoria Police's internal review of the Inflation Nightclub incident
- specifically considering risk assessment practices as part of incident debriefs.

Recommendation 5

Within six months Victoria Police amends the Victoria Police Manual – Specialist Support to clarify the respective roles and responsibilities of CIRT officers and general duties officers whenever CIRT attends an incident in an 'assist' capacity, including in relation to:

- communicating with other attending officers and the police forward commander
- custody handover procedures and human rights
- handling evidence
- notifications to Professional Standards Command regarding deaths and serious injury incidents involving police.

Recommendation 6

Within 12 months Victoria Police diversifies CIRT's leadership and make-up, including:

- reporting to IBAC on how Victoria Police's Gender Equality Action Plan 2022–24 and CIRT's Gender Equality Action Plan have removed gender barriers to joining CIRT
- reporting on other actions taken by Victoria Police to improve gender diversity in CIRT, including by reviewing role requirements (beyond physical training requirements) as recommended by VEOHRC's *Independent Review of Sex Discrimination and Sexual Harassment, Including Predatory Behaviour, in Victoria Police: Phase One Report*
- giving IBAC an updated report on the diversity of CIRT's leadership and other officers.

IBAC will publish Victoria Police's responses to these recommendations on its website.

2 Context

2 Context

2.1 Overview of CIRT

2.1.1 Establishment and responsibilities

In 2003, Victoria Police identified a skills gap between the capabilities of general duties officers and the Special Operations Group in resolving critical incidents.[15] In response, Victoria Police created two CIRT teams, with specialised training and additional equipment, to provide specialist support to metropolitan police.

CIRT is in Victoria Police's Security Services Division, which is part of the Transit and Public Safety Command.

CIRT's role is to support general duties officers when they attend high-risk incidents, including violent confrontations or where there is a reasonable assumption that a person is armed with a weapon. Such incidents include sieges, barricade incidents and searches for armed or violent persons. CIRT also provides:

- negotiator capabilities to help resolve incidents that may include extortion, hostage(s), suicide intervention and counter-terrorism
- close personal protection for internationally protected persons, holders of high public office and international dignitaries
- specialist support at major events
- assistance to investigation units for executing search warrants and for arresting offenders
- a specialist response to clandestine laboratory operations.

In 2020, CIRT was called out to respond more than 1700 times, or an average of four times per day. More than 450 CIRT deployments related to mental health incidents in 2020.

2.1.2 Recruitment

To be considered for CIRT, officers must complete a minimum of two years as a general duties officer.[16] CIRT applicants undergo health and medical assessments and complete physical activities that replicate on-the-job tasks, to test their capacity to perform CIRT duties.

Applicants then complete a CIRT appraisal. This two-day process replicates tasks that CIRT officers are likely to undertake, and includes scenario-based assessments. Shortlisted applicants are then considered by a selection panel which is provided with the complaint histories of all shortlisted applicants. The selection panel can ask applicants about previous discipline matters and complaints to determine their suitability. Further probity checks are conducted to determine whether there are any active investigations or other relevant matters.

CIRT's Standard Operating Procedures state that Victoria Police encourages and supports workplace equity and diversity by providing workplace mentors to CIRT applicants throughout the selection process.

15 Office of Police Integrity (OPI) Victoria 2005, *Review of Fatal Shootings by Victoria Police*, p 28, **www.parliament.vic.gov.au/papers/govpub/VPARL2003-06No177.pdf**.
16 Victoria Police, *Specialist Roles and Areas for Police Officers*, viewed 12 August 2021, **www.police.vic.gov.au/specialist-areas**.

2.1.3 CIRT's structure and gender diversity

There are 185 positions in CIRT. Most of these are filled by men. As of September 2021, women accounted for only 13 (7 per cent) of the 185 positions. Of the 36 supervisor positions in CIRT, only two (6 per cent) are currently held by women. There are currently no female inspectors or senior sergeants in CIRT.

CIRT officers classed by rank and gender*

Rank	Men	Women	Vacant	Total
Inspector	2	0	1	**3**
Senior sergeant	6	0	1	**7**
Sergeant	22	2	2	**26**
Operative	124	11	14	**149**
Total	**154**	**13**	**18**	**185**

* At September 2021.

In the 12 months to September 2021:

- 28 officers joined CIRT
- 7 of the 28 new officers were women (6 operatives[17] and 1 sergeant)
- 21 of the 28 new officers were men (18 operatives and 3 sergeants)
- 39 officers left CIRT: 32 operatives, 6 sergeants and 1 senior sergeant
- reasons for departure varied, and included promotion, resignation or retirement, career diversity and development, and work–life balance.

17 'Operatives' is a term used by Victoria Police to refer collectively to ranks below sergeant.

2.1.4 Training

Upon being appointed to CIRT, successful applicants undertake the CIRT foundation training course, which focuses on the fundamental skills and knowledge needed for undertaking CIRT responsibilities.

CIRT officers then undergo regular training, with one out of every six weeks of a CIRT officer's roster dedicated to training.[18] Training is overseen by a dedicated CIRT senior sergeant and a divisional training inspector and is delivered by the CIRT Training Wing.

CIRT training is divided into four levels:

- **Foundation training (level 1):** Foundation training encompasses the basic skills required by a CIRT officer, and includes weapons skills, tactical arrest options, and vehicle intercepts.
- **Skill maintenance training (level 2):** Skills maintenance training reinforces and further develops officers' skills, and includes recertification in mandatory qualifications obtained in foundation training.[19]
- **Specialist skills training (level 3):** CIRT officers can also obtain a specialist skills qualification in close personal protection and negotiation.
- **Specialist instructor training (level 4):** Specialist instructor training includes all internal and external courses that further develop skills already achieved by CIRT officers.

2.2 Operating environment

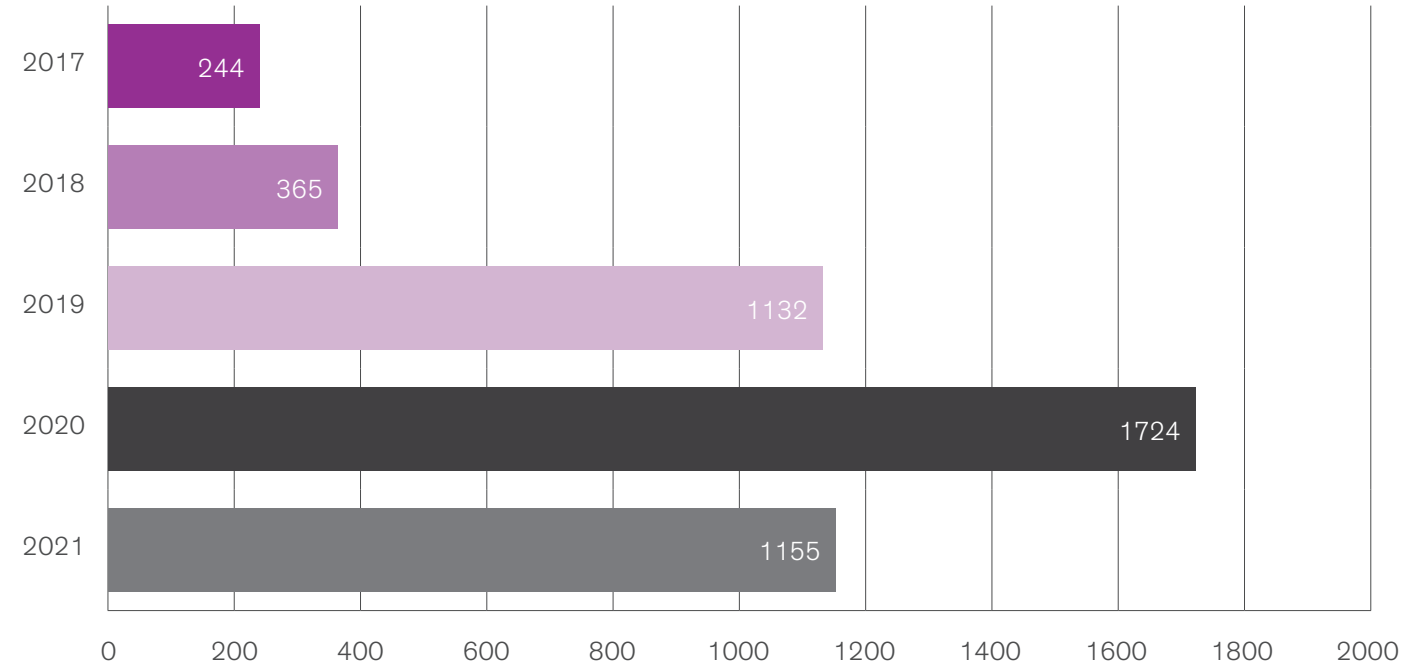
Victoria Police told IBAC that the operating environment for CIRT officers has become more difficult due to more frequent high-risk incidents involving armed offenders. IBAC notes that Victoria's Crime Statistics Agency has recorded a general increase over the last 10 years in offences such as aggravated assault with a weapon, although these figures fluctuate from year to year.[20]

The number of CIRT deployments rose in 2020 before returning to pre-pandemic levels in 2021. In March 2019, Victoria Police changed the way it records CIRT deployments, from recording approved deployments only to recording all tasks attended by CIRT officers.[21] Therefore, accurate comparisons can only be made between 2017 and 2018, and from 2019 to 2021.

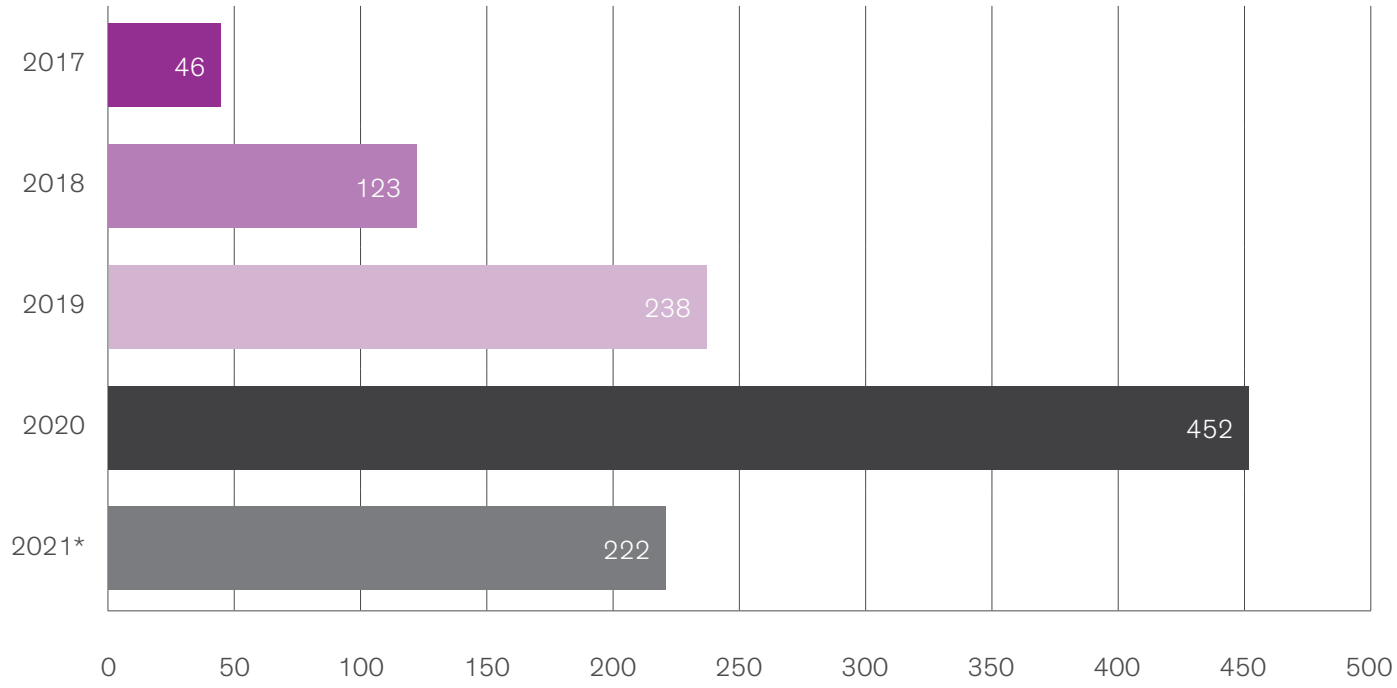
The rise in CIRT deployments in 2020 may be explained by CIRT officers being in satellite locations around Victoria rather than being centrally located in Melbourne during the height of COVID 19–related restrictions. During this time, CIRT officers were closer to incidents and were able to be more responsive to requests for assistance. Issues associated with CIRT deployments, including responsiveness, are discussed in section 4.3.1.

18 Victoria Police, *Specialist Roles and Areas for Police Officers*, viewed 12 August 2021, **www.police.vic.gov.au/specialist-areas**.
19 Operational CIRT officers must maintain their qualifications and competencies to perform CIRT duties, with each qualification and competency valid for 180 days.
20 Crime Statistics Agency Victoria 2022, *Recorded Offences – Crime Statistics*, viewed 17 February 2022, **www.crimestatistics.vic.gov.au/crime-statistics/latest-victorian-crime-data/recorded-offences-2**.
21 Police reported that, due to a technical problem, between October and December 2019 only approved deployments were recorded, rather than all tasks attended.

CIRT deployments, 2017–2021



Mental health–related CIRT deployments, 2017–2021



* Data for 2021 is from 1 January to 31 August only.

2.2.1 Mental health–related deployments

Much of Victoria Police's work involves responding to incidents where a person(s) is experiencing a mental health crisis or related problem. In 2017–18, Victoria Police responded to a mental health callout approximately every 12 minutes.[22]

Police and protective service officers (PSOs) need only be satisfied that a person appears to be experiencing a mental health problem based on the person's behaviour and appearance and any other relevant information, including information from a family member or carer if appropriate. Officers are not required to make a clinical judgement on whether a person has a mental illness.

Under Victoria Police policies, responding officers should request CIRT assistance in instances where someone is threatening suicide, and in other high-risk situations.

The number of CIRT deployments to mental health–related incidents has been increasing over the last five years. To improve their responses to people experiencing a high-risk mental health event, such as threats of self-harm, CIRT uses the Enhanced Critical Incident Response Program. This joint program of NorthWest Mental Health (Melbourne Health) and Victoria Police provides relevant mental health information and advice.[23]

In November 2020 Victoria Police began implementing the Police Responding in Mental Health Events (PRIME) training, a two-day mental health awareness training course. This is designed to give officers higher-level communication strategies for responding to crisis mental health incidents, and includes learning activities that are immersive and aim to simulate real-life scenarios as closely as possible. At the time of writing, most CIRT officers had not completed PRIME training.

The Royal Commission into Victoria's Mental Health System in 2021 recommended that, wherever possible, emergency services' responses to people experiencing time-critical mental health crises should be led by health professionals rather than by police, to improve outcomes for people in crisis.[24] Victoria Police is working with the Department of Health, the Department of Justice and Community Safety, Ambulance Victoria and the Emergency Services Telecommunications Authority (ESTA)[25] to implement the Royal Commission's recommendation.

2.2.2 CIRT patrols

CIRT teams patrol the Melbourne central business district, inner-city areas, major events and mass gatherings.[26] Victoria Police commenced these CIRT patrols in December 2017, following the January 2017 Bourke Street incident. The patrols were established to help Victoria Police respond to high-risk incidents, including armed offending, vehicle attacks and potential terror offences.[27, 28]

Victoria Police reported that, in the 12 months to December 2018, CIRT patrols responded to 83 incidents, or one incident every four days.[29]

22 Victoria Police 2019, *Royal Commission into Victoria's Mental Health System: Victoria Police Submission*, p 3, **http://rcvmhs.archive.royalcommission.vic.gov.au/Victoria_Police.pdf.**
23 Ibid., p 9.
24 *Royal Commission Into Victoria's Mental Health System: Final Report*, recommendation 10(1), **https://finalreport.rcvmhs.vic.gov.au/recommendations/**.
25 ESTA provides Victoria's 24-hour emergency call-taking (triple-zero) and dispatch services for police, fire, ambulance and the Victorian State Emergency Service. ESTA also manages the in-field communications of Victoria's emergency services.
26 Victoria Police 2017, 'New rapid response to keep Melbourne safe' (media release, 17 December), viewed 12 August 2021, **www.web.archive.org/web/20171217142526/https:/www.vicpolicenews.com.au/news/new-rapid-response-to-keep-melbourne-safe**.
27 Ibid.
28 Coroner's Court of Victoria 2020 (Coroner Jacqui Hawkins), *Coronial Inquest into the Deaths of Matthew Poh Chaun Si, Thalia Hakin, Yosuke Kanno, Jess Mudie, Zachary Matthew Bryant, Bhavita Patel*, p 293. **www.coronerscourt.vic.gov.au/sites/default/files/2020-11/Bourke%20Street%20Coronial%20Finding%20-%20Digital_1.pdf**
29 Victoria Police 2018, 'CIRT marking one year of rapid responses' (media release, 17 December), viewed 12 August 2021, **www.web.archive.org/web/20181221104148/https:/www.vicpolicenews.com.au/news/cirt-marking-one-year-of-rapid-responses**.

2.3 Complaints about CIRT

Complaints about the conduct of Victoria Police officers can be made to IBAC or to Victoria Police. A complaint can include any number of allegations, against one or more officers.[30]

IBAC notes that analysing allegations data is of limited usefulness, because it is not a comprehensive or reliable indicator of the actual prevalence of particular activities, or of risk-mitigation practices and compliance activities already in place. However, analysing allegations can help to identify trends or patterns, and provide practical examples of these trends.

Between 1 July 2017 and 30 June 2021, there were 127 allegations made to Victoria Police in relation to 73 CIRT officers. As demonstrated in the table below, the most common allegations (91 of the 127 allegations) against CIRT officers related to assault (for example, kicking, manhandling, pushing), behaviour (for example, inappropriate language or attitude), and duty failure (such as failing to inform someone of their legal rights). Three assault allegations were related to off-duty incidents, including a family violence incident.

Allegations against CIRT officers, 2017/18 – 2020/21

Allegation type	2017/18	2018/19	2019/20	2020/21	Total
Unlawful arrest	–	2	–	4	**6**
Assault	14	8	3	6	**31**
Serious assault	–	2	–	1	**3**
Behaviour (eg language)	5	10	7	5	**27**
Civil process (eg intervention order)	–	1	1	–	**2**
Discrimination (eg victimisation for making a complaint)	–	–	1	–	**1**
Duty failure (eg failure to inform of legal rights)	–	18	13	2	**33**
Breach of Human Rights Charter	–	–	–	1	**1**
Information (eg misuse)	–	–	1	4	**5**
Injury in presence (police-inflicted)	–	6	–	–	**6**
Malfeasance (eg traffic offence, sexual offence)	–	3	1	5	**10**
Property (fail to return or account for)	–	–	1	1	**2**
Search and seizure (eg occasioning damage)	–	1	–	–	**1**
Total	**19**	**51**	**28**	**29**	**127**

Note: a single complaint may contain more than one allegation. This data refers to when the complaint was made to Victoria Police, which may differ from when the conduct occurred.

30 Victoria Police has 10 possible determinations for investigation files, including 'withdrawn', 'unsubstantiated', 'unable to determine', and 'substantiated', and 'resolved' or 'not resolved' for customer service-related complaints. Where an allegation is determined to be substantiated, three actions can be taken: workplace guidance, a breach of discipline charge, or a criminal charge.

Substantiated* allegations against CIRT officers, 2017/18 – 2020/21

Allegation type	No. of substantiated allegations
Assault	–
Behaviour	14
Duty failure	–
Breach of Human Rights Charter	5
Malfeasance	–
Total	**19**

*'Substantiated' means that the allegation(s) is found to be true.

Of the 127 allegations, 19 allegations (15 per cent) were substantiated (20 allegations had not received a determination at the time the data was provided to IBAC). The most common actions taken in response to these allegations were workplace guidance (10 allegations), 'no action' (8 allegations), and admonishment (8 allegations).[31] Officers may also receive workplace guidance or counselling in response to low-level matters that are not eligible to be found 'substantiated'.

Responses by Victoria Police to substantiated allegations, 2017/18 – 2020/21

Allegation	Admonished	Charged with criminal offence	Court hearing	No action (resigned)	Penalty notice	Workplace guidance	Total
Assault	–	1	2	–	–	–	**3**
Behaviour	3	1	–	–	–	1	**5**
Duty failure	2	–	–	1	–	6	**9**
Breach of Human Rights Charter	–	–	–	–	–	1	**1**
Malfeasance	–	–	–	–	1	–	**1**
Total	**5**	**2**	**2**	**1**	**1**	**8**	**19**

31 Since 2016, IBAC and other bodies have recommended that Victoria Police simplify its system of classifications and determinations to make it clearer for complainants, subject officers and investigators. On 1 July 2022, Victoria Police implemented a new simplified categorisation, classification and determination framework.

3 IBAC investigations and other incidents involving CIRT officers

3 IBAC investigations and other incidents involving CIRT officers

3.1 Inflation Nightclub incident

At approximately 3 am on 8 July 2017, a Victoria Police uniform foot patrol unit reported to Police Communications that it had been approached by a member of the public who advised that there was a patron (Person B) in possession of a handgun in the upstairs area of the Inflation Nightclub on King Street, Melbourne. CIRT was asked to attend and assist due to the possible presence of a handgun.

Approximately half an hour later, the officer in charge of the incident[32] advised over police radio that they had been informed by an Inflation Nightclub security guard that they had seen the handgun and that it was a plastic toy gun. The officer in charge and the CIRT tactical commander and CIRT senior supervisor[33] then decided to approach and arrest Person B, whom they believed to be in possession of a real or imitation handgun.

Just before 4 am, CIRT officers, followed by general duties officers, approached Person B on the first floor of the Inflation Nightclub. Person B was with another patron (Person C). One of the CIRT officers stated they announced themselves as police and directed Person B to lay on their stomach. The CIRT officer went on to state that Person B responded by raising the imitation handgun at them and Person B was shot in response. Witness accounts are conflicting regarding whether Person B raised what was believed to be a handgun at the CIRT officers. In a statement to police about the incident, Person B denied pointing the plastic handgun at officers. The handgun was later confirmed by police to be an imitation handgun.

Two CIRT officers shot Person B who was then tasered and restrained by police. Both Person B and Person C were injured because of the shooting.[34]

Victoria Police investigated the shooting with active oversight[35] of the investigation by IBAC. Victoria Police's investigation concluded:

- the police response to the incident was reasonable and consistent with organisational and community expectations
- the planning and risk assessments undertaken by supervisors in relation to the incident were appropriate and proportionate in the circumstances
- the CIRT officers shot Person B in self-defence.

Upon reviewing Victoria Police's investigation, IBAC was critical of Victoria Police's investigation, finding that Victoria Police had only investigated the conduct of the patrons involved in the incident, and not the actions and conduct of police officers.[36]

IBAC continued to raise concerns with Victoria Police that it had not reviewed the actions of officers in the incident. In response, Victoria Police later conducted an internal review of the shooting, to see whether the organisation could learn any lessons from this incident, and to improve its policies, processes and training. This internal review was finalised in December 2019.[37]

The internal review found that senior officers, including senior CIRT officers, did not undertake appropriate risk assessments throughout the incident or re-evaluate risks in response to new information. In particular, the review demonstrated that there were safer, reasonable and less forceful options available than the tactical response deployed by CIRT.[38]

32 Victoria Police refers to this role during incidents as the 'police forward commander'. However, in the present report it is referred to as the 'officer in charge'. See Section 4.2 for further information on roles and responsibilities at critical incidents.
33 Victoria Police refers to this role as a 'CIRT duty officer'. However, in the present report it is referred to as a 'senior supervisor'. This role is performed by a senior sergeant.
34 Two bullets struck Person B in their upper body. Person C contends that one of the CIRT officers shot her twice in the right leg. Victoria Police denies this and contends that one of the bullets that struck Person B fragmented on impact and struck Person C in their right leg.
35 Also referred to as a 'real-time review'. Instead of reviewing the Victoria Police investigation once it was complete, IBAC investigators had real-time access to information obtained as part of the Victoria Police investigation, met regularly with Victoria Police investigators and Professional Standards Command, and received copies of the final investigation report.
36 IBAC 2019, 'Deficiencies in Victoria Police review of Inflation night club shooting' (media release, 14 November), **www.ibac.vic.gov.au/media-releases/article/deficiencies-in-victoria-police-review-of-inflation-night-club-shooting**.
37 Victoria Police refers to these internal reviews as Operational Safety Committee Incident Reviews, or OSCIRs. The purpose of an OSCIR is to identify lessons to be learned by the organisation, and recommend opportunities for improving police systems, processes, practices, policies, training and resources.
38 Senior officers disagreed with the wording of this finding and were of the view that the issue was a failure to consider and work through other available options.

3.2 Operation Lynd

On 11 May 2019, Person E was arrested by CIRT officers outside the Hares & Hyenas bookshop in Fitzroy. During the arrest, Person E sustained serious injuries to their arm and shoulder.

IBAC began Operation Lynd to investigate whether the officers involved in the incident acted lawfully, including their entry into the premises of Hares & Hyenas, the arrest of Person E, and the force used against Person E.

IBAC found that CIRT officers entered the bookshop based on the belief that an alleged violent offender had abandoned a stolen vehicle and absconded into the premises. When CIRT officers entered the living area of the top floor they observed Person E standing in the middle of the room. Person E ran down internal stairs and out the front door onto the street. After a forceful struggle, CIRT officers apprehended Person E on the footpath outside Hares & Hyenas. During the struggle, Person E sustained abrasions to their head and serious injuries to their arm and shoulder.

IBAC found that the officers' entry to the premises and the force that they used to subdue and arrest Person E were lawful.[39] The CIRT officers reasonably believed at the time that an armed offender suspected of committing serious offences had escaped into the premises. Their belief was based on the information available at the time. Victoria Police subsequently confirmed that the CIRT officers were mistaken in their belief, but that this did not make the arrest unlawful.[40]

Person E's evidence was that the CIRT officers did not announce themselves as police when they entered the top floor. For this reason Person E tried to get away from the officers because Person E believed that they were being pursued by intruders seeking to harm or even kill them, possibly due to their sexuality.[41] The CIRT officers' evidence was that they *did* identify themselves upon entering the top floor.

IBAC was not able to determine to the necessary standard of proof whether the officers identified themselves as police when they entered the top floor of the premises, due to conflicting evidence between Person E and the CIRT officers, and because at the time of the incident CIRT officers were not equipped with body-worn cameras. CIRT officers have since been provided with body-worn cameras.

After being arrested, Person E was taken to hospital and underwent surgery on their arm and shoulder.

IBAC also found that:

- after being detained, Person E was never informed of the reason for their arrest, informed of their rights, or officially released from custody, in contravention of section 21(4) of the *Charter of Human Rights and Responsibilities Act 2006* (the Charter Act)
- during the arrest of Person E, CIRT officers used several force options, including drawing their firearms, but this use was not recorded appropriately
- some CIRT officers had a poor understanding of CIRT policies and procedures for deployment and handover.

These matters are discussed further in Chapter 4.

39 Section 459 of the *Crimes Act 1958* (Vic) empowers Victoria Police officers to arrest a person without a warrant if the officers believe on reasonable grounds that the person to be arrested has committed a serious indictable offence.

40 A subsequent review of footage from the Victoria Police helicopter and neighbouring CCTV revealed that the driver of the vehicle had left the laneway behind Hares & Hyenas minutes before police arrived. On 24 June 2019, Victoria Police excluded Person E from having any involvement with the stolen vehicle or criminal links to any connected offenders.

41 IBAC found no evidence that the incident was linked to the sexuality of the parties involved.

3.3 Operation Wingan

On 13 September 2020, Person A was apprehended by CIRT and general duties Victoria Police officers in Epping. Several means of force were used to apprehend Person A, who at the time was experiencing a mental health crisis.

IBAC began Operation Wingan following a complaint from a member of the public about the way police treated Person A.[42] Operation Wingan investigated whether there was any police misconduct arising from the actions of police officers in their apprehension of Person A.

IBAC established that, on 13 September 2020, Person A became distressed after waiting for approximately 18 hours in the emergency department of the Northern Hospital in Epping. Person A damaged an exit door of the hospital by kicking it several times and then left the hospital on foot. A triple-zero call was made, and general duties officers attended the area.

Person A did not obey the instructions of the attending general duties officers, and ran onto a busy road among traffic. General duties officers used several tactics in an attempt to apprehend Person A, including striking them with a baton, deploying OC spray, and driving a police vehicle into the back of Person A's legs. These tactics were not successful, and Person A continued to evade police.

CIRT Officer 1 and CIRT Officer 2 were in the vicinity of Epping at the time, and CIRT Officer 1 heard police radio communications about the unfolding incident. CIRT Officer 1 and CIRT Officer 2 decided to attend the incident and assist in the apprehension of Person A.

Upon the CIRT officers' arrival, CIRT Officer 1 and Person A became engaged in a physical confrontation. CIRT Officer 1 and CIRT Officer 2 overpowered Person A with the assistance of a general duties officer deploying OC spray. Other police officers then moved in and apprehended Person A. Ambulance Victoria paramedics arrived and assessed Person A before transporting them back to the Northern Hospital.

IBAC examined all the available evidence including video footage from body-worn cameras, CCTV and material recorded by members of the public, as well as statements from police, Person A, and other witnesses.

Despite the understandably distressing incident which Person A was involved in, based upon all the evidence assessed, IBAC was satisfied that the level of force used by the CIRT and general duties officers was proportionate in the circumstances to affect the apprehension of Person A. However, the use-of-force form submitted for the incident included inaccurate and inconsistent information.

IBAC also found that:

- the CIRT officers did not communicate their intention to attend the incident to the emergency services radio operator or any of the police officers that were engaged in the pursuit of Person A
- CIRT Officer 1, CIRT Officer 2, and a general duties officer did not activate their body-worn cameras in accordance with Victoria Police policy[43]
- after apprehending Person A, neither the CIRT nor general duties officers advised Person A of the reason for their detention
- Victoria Police's provision of OC spray aftercare was deficient
- Victoria Police's provision of mental health training to officers was deficient.

These matters are discussed further in Chapter 4.

42 Under the IBAC Act, section 64(1)(a).

43 Victoria Police 2018, Chief Commissioner's Instruction CC102/18 Body Worn Camera Deployment. These instructions have since been replaced by Victoria Police Manual – Body Worn Cameras, 2022.

3.4 Other incidents

Although the following matters were not investigated by IBAC, they have been considered by IBAC in preparing this special report, given the involvement of CIRT officers.

3.4.1 Bourke Street incident

In the early morning of 20 January 2017, the Offender[44] attacked and stabbed his brother outside an apartment complex in Windsor. This followed a week of escalating behaviour requiring police intervention, including another serious assault, after the Offender's release on bail on 14 January 2017.[45]

Victoria Police responded to the stabbing and began to search for the Offender. During the search, general duties officers requested assistance from CIRT to arrest the Offender. CIRT denied the request, because at the time officers did not have 'eyes on' the Offender. Later, the Coroner stated that she failed to understand this decision based on what was known at the time, including the Offender's violently escalating behaviour.[46]

In the following hours, Victoria Police officers attempted to locate and arrest the Offender. CIRT officers ultimately joined the search and on a number of occasions came close to arresting him.

The events of 20 January 2017 culminated in the Offender driving a stolen car along Bourke Street, causing the deaths of six people.[47]

CIRT's risk assessment and deployment processes are considered further in Chapter 4.

3.4.2 Brunswick incident

In the early hours of 7 May 2017, there was a police pursuit in Brunswick. The pursuit ceased when the pursued vehicle collided with a parked car. A person got out of the pursued vehicle and fled on foot. The person was arrested by police on the footpath outside a premises.

At the same time, Person D was standing outside the premises with three friends. Person D was not involved with the person driving the vehicle or otherwise involved in the pursuit. However, police suspected that Person D may have been associated with the offender and called on Person D to surrender. Person D complied and followed police directions.

CIRT officers restrained Person D. During their interaction with CIRT officers, Person D sustained a broken jaw. Following an investigation by Victoria Police, one of the CIRT officers involved was charged with assault, but was found not guilty by a jury in June 2022.

3.4.3 Craigieburn incident

In the early hours of 5 October 2019, police observed a vehicle with allegedly stolen number plates being driven in Craigieburn. CIRT and the Dog Squad were asked to assist. Highway Patrol officers activated their lights and sirens and followed the vehicle. The vehicle then crossed an intersection and collided with a civilian vehicle. The occupants of the civilian vehicle required hospitalisation for non-life-threatening injuries.

One of the occupants of the pursued vehicle then fled on foot into an adjacent paddock. The Dog Squad and CIRT officers pursued this person on foot. The person was struck at slow speed by a general duties officer in a police vehicle and at the same time was Tasered by CIRT, before being arrested and restrained. Well after the arrest phase, a CIRT officer approached and kicked out at the arrested person's head while they were seated and compliant. The CIRT officer was then pulled away by a CIRT colleague.

Following an investigation by Victoria Police, the CIRT officer was charged with assault. The CIRT officer was found guilty without conviction in December 2021, but was acquitted on appeal in July 2022.

3.4.4 Operation Fusilli

IBAC is overseeing a Victoria Police investigation, Operation Fusilli, into allegations that two CIRT officers used excessive force when arresting two persons in Melbourne's central business district in September 2021.

44 Out of respect for the families of Matthew Poh Chaun Si, Thalia Hakin, Yosuke Kanno, Jess Mudie, Zachary Matthew Bryant and Bhavita Patel, and at their request, the Offender was not referred to by name throughout the coronial inquest and subsequent coroner's report. IBAC has adopted the same approach.

45 Coroner's Court of Victoria 2020 (Coroner Jacqui Hawkins), *Coronial Inquest into the Deaths of Matthew Poh Chaun Si, Thalia Hakin, Yosuke Kanno, Jess Mudie, Zachary Matthew Bryant, Bhavita Pate*l, p 316

46 Ibid., p 319.

47 Matthew Poh Chuan Si, Thalia Hakin, Yosuke Kanno, Jess Mudie, Zachary Matthew Bryant and Bhavita Patel.

4 Misconduct risks and issues

4 Misconduct risks and issues

4.1 Use of force

CIRT officers are called to respond to difficult situations that can present significant risks to the safety of members of the public and to Victoria Police officers. One of the options available to CIRT officers when responding to these risks is the legal use of force.[48]

The use of force by police includes physical force or other techniques, including weapons and equipment to respond to an actual or perceived threat.[49] The level of force needed to bring an incident under control depends on the type of incident, the capability of responding officers, and the responding officers' risk assessments.

When using force, Victoria Police officers must comply with the law and with Victoria Police policies. These include the Charter, which protects Victorians from any treatment or punishment that is cruel, inhumane or degrading. Officers must also have regard for the safety of themselves, other police, members of the public and any offenders. These legislative powers and safety requirements are outlined in the Victoria Police Manual – Operational Safety and Use of Force. This policy, along with the Victoria Police Manual – Operational Safety Equipment, sets out the required training for officers on when they can use force, under what circumstances specific types of force can be used, and how the use of force must be reported.

Unjustified or unlawful use of force by police officers towards members of the public can not only harm individuals but can also diminish the public's confidence in Victoria Police.

4.1.1 Use of force by CIRT officers

CIRT recorded using force in 39 per cent of incidents it attended in 2021.[50] This was an increase from 2019 and 2020, when CIRT recorded using force in around 24 per cent of incidents it attended.

Incidents that CIRT attended and recorded using force, 2019–2021

Year	Total no. of incidents attended	No. of incidents involving force	Percentage of incidents attended where force was used
2019	1132	262	23.14%
2020	1724	424	24.59%
2021	1155	454	39.31%

The number of force acts during incidents also increased, from 1468 in 2019, to 2842 and 2860 in 2020 and 2021 respectively. One incident may involve more than one act of force, and different types of force, by one or more officers.

The most common types of force used by CIRT between 2019 and 2021 involved physical options or restraints. Tactical options such as Tasers, pistols and rifles were used less often. It is important to note that force can include drawing a Taser or firearm, even if the officer does not discharge it.

48 Officers are authorised to use force in self-defence (or in defence of another person) or to arrest persons pursuant to sections 322K and 462A of the Crimes Act, respectively. Under section 351 of the Mental Health Act, officers have 'all the powers necessary' to apprehend a person who appears to have a mental illness and who because of that mental illness is at imminent risk of harming themself or others.

49 Australia New Zealand Policing Advisory Agency (ANZPAA) 2018, *Australia New Zealand Use of Force Principles*, **https://www.anzpaa.org.au/publications/general**.

50 This includes both formal deployments and assists.

Types of force used by CIRT, 2019–2021

Type of force used	2019 Proportion	2020 Proportion	2021 Proportion
Grab, hold, push, swarm	17.9%	18.1%	11.4%
Wrestle, grapple	14.7%	12.2%	8.2%
Restraint* – two-person three-points hold	11.5%	9.8%	12.3%
Plastic restraint	8.7%	7.2%	9.0%
Handcuffs	8.5%	7.0%	Included in 'Other'
Takedown technique§	6.5%	4.5%	Included in 'Other'
Police direction or instruction (police only)	4.7%	6.5%	8.0%
Conducted energy device (CED, or Taser)	4.6%	6.2%	7.2%
Restraint – one-person three-points hold	3.5%	Included in 'Other'	Included in 'Other'
Negotiation	3.2%	Included in 'Other'	Included in 'Other'
Communication	Included in 'Other'	5.3%	5.1%
Pistol	Included in 'Other'	4.0%	4.9%
Rifle	Included in 'Other'	Included in 'Other'	4.9%
Body-worn camera	Included in 'Other'	Included in 'Other'	5.3%
Other†	16.1%	19.1%	23.6%
Total no. of incidents in which force was used¶	**1468**	**2842**	**2860**

* A restraint position suitable for controlling a person who is face down, so that handcuffs can be applied. In a one-person three-points hold, the officer holds the subject's arm, places their knee on the subject's upper back, and places their other knee on the ground against the subject's ribs. In a two-person three-point hold, the same process is replicated but with two officers.

§ Taking a person to the ground to limit their ability to fight or resist.

† 'Other' includes all other types of force not included in the list.

¶ Data is for all methods used, including used/struck with, threatened and displayed, threatened not displayed, warning arc (CED), draw/cover display (CED), probe deployment (CED), discharged, bean bag/baton round/capture net, bitten (dog – police).

CIRT predominantly used force when subduing a prisoner, suspect or offender; when making an arrest; and during sieges. Other reasons included preventing self-harm or suicide, or assisting an agency or family member in relation to a mental health–related incident.

In 2021, demonstration (public protests) was the equal second most common incident type in which CIRT officers used force. This is probably due to the number of protests held in Melbourne during this time in response to COVID-19 restrictions and vaccine mandates.

Types of incident at which CIRT used force, 2019–2021

Incident type*	2019 Proportion	2020 Proportion	2021 Proportion
Subdue prisoner, suspect or offender§	19.1%	18.9%	15.1%
Street arrest or check	18.3%	17.0%	13.9%
Siege	13.4%	13.7%	13.4%
Prevent self-harm or suicide	10.3%	9.4%	6.6%
Warrant or search†	10.3%	5.4%	9.7%
Mental health – assist agency, relative or family¶	7.6%	12.3%	4.8%
Domestic dispute	6.1%	7.1%	6.8%
Welfare check	3.4%	3.3%	Included in 'Other'
Burglary	3.1%	Included in 'Other'	2.2%
Vehicle intercept	2.7%	3.5%	3.1%
Provoked shooting	Included in 'Other'	2.6%	Included in 'Other'
Demonstration	Included in 'Other'	Included in 'Other'	13.9%
Other^	5.7%	6.8%	10.1%
Total incidents	**262**	**424**	**454**

* One initial incident type recorded per incident.

§ 'Subdue prisoner' incident type is grouped with 'Subdue suspect or offender' incident type.

† 'Warrant or search' includes both forced and peaceful entries.

¶ 'Mental health – assist agency' incident type is grouped with 'Mental health – assist relative/family' incident type.

^ 'Other' includes all incident types not included in the list.

The proportion of persons against whom CIRT used force and apprehended under section 351 of the *Mental Health Act 2014* (Vic) (Mental Health Act) remained stable in 2019 and 2020, and decreased in 2021, although the number of persons against whom CIRT used force has increased.

Proportion and number of persons against whom CIRT used force who were apprehended under section 31 of the Mental Health Act, 2019–2021

Year	Proportion	Number*
2019	9.5%	294
2020	10.8%	508
2021	6.7%	555

* Recorded as per person per incident. More than one person may be involved in an incident.

The accuracy of the above statistics depends on officers recording their use of force accurately and completely. IBAC has identified inadequacies in CIRT's (and officers across Victoria Police) recording of their use of force. These matters are considered later in this chapter.

4.1.2 Use-of-force complaints against CIRT officers

Between 1 July 2017 and 30 June 2021, Victoria Police recorded 35 use-of-force allegations against 22 CIRT officers, in relation to 12 separate incidents.[51] Use-of-force allegations accounted for 27.5 per cent of allegations against CIRT officers over this period.

There were three allegations of serious assault: one allegation each of striking with a firearm, kicking, and manhandling. Victoria Police determined that these allegations were 'not substantiated'.

There were 31 allegations of assault, of which 3 were classified as having occurred while the officer(s) were off-duty. These allegations related to manhandling (8 allegations), striking with a hand or implement (7 allegations), pushing (5 allegations) and threatening use of a firearm (4 allegations).

Three of these assault allegations were substantiated. One allegation related to an on-duty incident and the officer was charged with a criminal offence. Two allegations related to an off-duty incident and the officer was criminally charged.

Of the remaining assault allegations, the determinations included unfounded (10 allegations), exonerated (4 allegations), no complaint (4 allegations), and not substantiated (4 allegations).

One allegation related to use of force during a search and seizure; it was determined to be 'not proceeded with'.[52]

Three of the 35 use-of-force allegations were substantiated by Victoria Police. It was beyond the scope of this report to determine the appropriateness of Victoria Police's determinations.[53]

51 IBAC received two further allegations against CIRT officers between 2018 and 2021, which were not included in the above data. IBAC referred these allegations to Victoria Police. One allegation related to use of force; Victoria Police determined that the CIRT officer was not involved in the incident and did not record an allegation against them. The second allegation related to CIRT officers' response to a person experiencing a mental health crisis. Victoria Police did not identify any of the officers involved and classified the incident as a lower-level matter that was determined to be 'not resolved'.

52 This determination means that the complaint is not proceeded with, due to the complainant being unwilling to supply information but also unwilling to withdraw the complaint, or when there is some other reason for being unable to take the complaint further.

53 IBAC has determined the appropriateness of Victoria Police's determinations in its audits of Victoria Police's handling of complaints; see IBAC, *Publications and Resources*, **www.ibac.vic.gov.au/publications-and-resources**.

4.1.3 Training

Operational safety and tactics training

Victoria Police officers undergo operational safety and tactics training (OSTT) twice a year. Officers are trained in applying relevant legislation, using a range of tactics and operational safety equipment and the Tactical Options Model.[54] The Tactical Options Model helps officers choose the most appropriate tactics, with a focus on communication and de-escalation techniques to resolve an incident, as well as a range of proportionate tactical options if force is necessary.[55]

CIRT (like other specialist areas of Victoria Police such as the Special Operations Group) previously delivered OSTT internally. Victoria Police's internal review into the Inflation Nightclub incident found that delivering OSTT to CIRT officers separately from general duties officers was not conducive to maintaining a shared understanding of general and specialist capabilities, a practical understanding of interoperability, and unified sense of 'one team'. These considerations are particularly important given that general duties officers and specialist teams regularly have to work together to resolve incidents.

Victoria Police's internal review also identified a potential conflict of interest in OSTT and other qualifications being assessed by trainers at the CIRT Training Wing, who at other times are also operational CIRT officers.

Victoria Police accepted the review panel's recommendation that an independent review of OSTT should be undertaken internally by specialist areas including CIRT. In February 2021, Victoria Police's Executive Command endorsed maintaining the model for some specialist areas to undertake OSTT separately, but with added supervision, quality assurance and governance by People Development Command. However, in April 2022 CIRT officers commenced undertaking OSTT alongside general duties officers as part of a trial. At the time of writing, this trial is continuing and being evaluated to determine its viability to be implemented as an ongoing arrangement. Victoria Police also intends to implement a statewide quality-assurance process for OSTT, to make sure that training is consistent.

To minimise harm from the use of operational safety equipment, Victoria Police monitors officers' OSTT qualifications. There are circumstances under which an officer's OSTT qualification must be suspended and reviewed, including following an incident where an officer discharges their firearm at another person. However, this process is primarily a welfare-based strategy.

Following the Inflation Nightclub incident, Victoria Police's internal review recommended that the policy be amended to include the criterion that a manager should consider suspending an officer's OSTT qualification if the manager suspects on reasonable grounds that an officer may not possess current competency to safely apply the operational safety principles. Victoria Police did not adopt this recommendation, noting that there were alternative options for managers, including allocation to non-operational roles and shifts.

Mental health training

Investigations such as Operation Wingan highlight the importance of regular and effective training for Victoria Police officers in the management of mental health–related incidents. There is currently no training for officers that deals with instances of violent but unarmed individuals experiencing a mental health episode, whom officers are empowered to arrest under the Mental Health Act.

Since 2006, Victoria Police has incorporated some mental health training into OSTT. In 2018, Victoria Police undertook an independent analysis of mental health training needs. This analysis found that the length of time allocated to mental health training was insufficient for the number and duration of mental health incidents that officers encountered on their shifts.

The result of the training needs analysis was a two-day training package dedicated to improving officers' responses to mental health–related incidents (PRIME training). The purpose of PRIME training is to provide higher-level communication strategies to respond to mental health incidents, and activities that simulate real-life scenarios as closely as possible.

At the time of writing, most CIRT officers have not yet undergone PRIME training.

54 Victoria Police Manual – Operational Safety and Use of Force, p 5.
55 Ibid.

4.1.4 Reporting the use of force

Victoria Police policy requires officers to complete a paper-based use-of-force form whenever force is used or threatened, either by or against police. Under Victoria Police's policies, force includes officers drawing a firearm or Taser, or forcing entry to a building.[56] One officer is required to submit the form documenting the nature of the force used by all officers involved in an incident. The relevant policy states that forms should be checked by a supervisor and submitted to the use-of-force registry within 24 hours by the officer in charge of the incident.[57] The policy does not explicitly require forms to be checked by a supervisor before submission.

The purpose of the use-of-force registry is to identify trends in the types of force being used against police, develop strategies to deal with risks, and determine whether operational training and techniques are adequate.[58] Victoria Police is not currently using the registry to identify trends in the types of force that police are using against members of the public, or to identify officers at risk of using excessive force. This is a significant gap in the prevention of police misconduct.

Problems in reporting the use of force

In Operations Lynd and Wingan, IBAC found that the details of the force used by police while arresting Person E and Person A were not fully and accurately recorded on the use-of-force forms submitted for the incidents. Evidence received from CIRT officers demonstrated that there is a lack of training and quality control over use-of-force forms.

Training

During the arrest of Person E, three CIRT officers drew their firearms when entering the Hares & Hyenas bookshop, and another CIRT officer activated their Taser several times. None of these instances was recorded on the use-of-force form as required by Victoria Police policy.

CIRT officers gave evidence to IBAC during Operation Lynd that they had received no training in reporting the use of force since their time as recruits at the police academy. When asked about what training they had received about using the use-of-force report, a CIRT officer told IBAC: "[T]here's a thousand and one forms in Victoria Police and you sort of leave the academy and you just fumble your way through and you figure out from the senior person what you've got to do and that's … how a lot of your training takes place."

The same CIRT officer stated that completing use-of-force forms was not something that all officers did regularly. This officer had been with CIRT for some months and had not completed a use-of-force form in their time there.

When completing use-of-force forms, officers need to understand what constitutes force, such as drawing (but not firing) a firearm. However, CIRT officers' evidence to IBAC demonstrated that they did not always understand the requirements of reporting their use of force, and that use-of-force reporting was treated as a 'tick and flick' task rather than a considered process.

56 Victoria Police Manual – Recording Use of Force, pp 2–3.
57 Victoria Police Manual – Operational Safety and Use of Force, pp 8–9.
58 Ibid., p 7.

Quality control

IBAC found that there is limited quality control over reporting the use of force. In Operation Lynd, a CIRT officer told IBAC that they had never sat down with a fellow officer involved in an incident and gone through the use-of-force form together. They said that it is a supervisor's responsibility to make sure that the form is completed accurately before it is submitted to the use-of-force registry.

In Operation Wingan, IBAC found that the use-of-force form submitted for the apprehension of Person A contained inaccurate details on which officers used OC spray, and an incomplete record of the force used against Person A by the CIRT officers. IBAC also noted a lack of consultation between the officer completing the form and the CIRT officers to make sure that the force used was reported accurately. IBAC found that, in this instance, the inadequacies in reporting the use of force stemmed from poor communication, lax reporting practices and an absence of quality control.

One CIRT officer told IBAC that the use-of-force form is complex and difficult to complete accurately. Each type of force has a code, and there are further codes for whether the force was threatened, displayed or used. Another CIRT officer described it as a straightforward 'tick and flick' process.

Operations Lynd and Wingan demonstrate that, under Victoria Police's current method for reporting the use of force, sufficient time and communication with other officers are required if events are to be reported fully and accurately. This can be difficult when officers involved in an incident are from different units, as was the case in Operation Wingan.

4.1.5 Opportunities to prevent police misconduct

Victoria Police's response to previous recommendations

Problems with reporting the use of force are not unique to CIRT. They have arisen in other IBAC investigations of Victoria Police officers.

In 2019 IBAC identified an opportunity for Victoria Police to review its use-of-force reporting system to determine what improvements could be made. In April 2020, in response to Operation Lynd, Victoria Police reviewed its policies, procedures and training after IBAC emphasised the importance of use-of-force reporting being appropriate, accurate, timely and consistent, and the importance of CIRT officers complying with their reporting obligations.

In November 2020 Victoria Police advised that:

- it was considering a new system for reporting the use of force
- it had updated its policy for reporting the use of force, effective June 2020[59]
- in July 2020, following identified deficiencies in use-of-force reporting, training was delivered to CIRT training officers
- after this training, CIRT management communicated instructions on timely and accurate use-of-force reporting to CIRT officers
- the current practice in CIRT is for supervisors to conduct a debrief after every incident involving force.

In July 2021, as part of Operation Wingan, IBAC recommended that Victoria Police make sure that its review of the use-of-force reporting system provides policies, procedures and training that give officers clear guidance on:

- how and when force should be reported
- which officers are responsible for submitting the use-of-force report
- which officers should review or endorse the use-of-force report, particularly when it reports force used by officers from more than one unit.

59 Victoria Police did not state what changes were made to the policy.

Victoria Police responded in March 2022, expressing its view that these recommendations were already dealt with appropriately in the Victoria Police Manual – Operational Safety and Use of Force.

In July 2022, Victoria Police advised that a new use-of-force database was being developed in conjunction with its statewide distribution of conducted energy devices (Tasers) to all officers. It is anticipated that this new database will operate from September 2023 and training will be developed to support the database's implementation.

Victoria Police's responses to Operations Lynd and Wingan include some work to improve how officers complete use-of-force forms. Victoria Police has also advised IBAC that it has created a mandatory training package to be completed by all front-line officers by December 2022 which focuses on identifying how and when use of force should be reported, who is responsible for submitting the form, and the review and endorsement process. Victoria Police has been indicating for several years that it intends to reform its use-of-force registry but has not yet done so. IBAC welcomes the advice that a new use-of-force database is in development.

Reforms are needed to make sure that Victoria Police accurately records where its officers have used force against members of the community, so that it can identify patterns in the use of force, and take steps to understand and prevent the misuse of force by its officers. Furthermore, without accurate data on the use of force, Victoria Police and IBAC cannot monitor officers' use of force.

4.2 Risk assessment and planning in response to critical incidents

Police officers must be able to respond effectively and efficiently to incidents and emergencies. They are taught to be aware of and respond to situational factors and risks that may influence their decision making. When responding to incidents or emergencies, Victoria Police officers are required to respond in a way that prevents or minimises harm to themselves, victims, offenders and the public.

By the nature of their work, CIRT officers regularly attend serious incidents that present risks to members of the public – and to the officers themselves. In such circumstances, it is imperative that CIRT officers undertake adequate risk assessments and develop response plans that are most likely to lead to the safe resolution of the incident.

4.2.1 Operational Safety Framework

Introduced in 2018, Victoria Police's Operational Safety Framework seeks to clarify expectations and improve operational decision making by frontline officers. The framework includes safety principles known as the Operational Response Principles: service, safety, and harm minimisation.[60] These seek to make sure that officers perform their role as outlined in the Victoria Police Act as safely as possible, while minimising harm.[61]

The Operational Safety Tool SAFE TACTICS supports the Operational Response Principles. It is a non-exhaustive list of tactical considerations, focused on minimising harm and managing consequences (for example, the 'S' in *safe* refers to 'slow down/step back – consider your response').[62]

60 *Service* – when performing their role, officers may be required to perform tasks that are inherently unsafe. Police officers and protective service officers are trained, equipped and empowered to perform such tasks, and there is a community expectation that they will do so.
Safety – while providing a policing service, officers will, as far as practicable, identify hazards and mitigate risks to themselves or others, consistent with the requirements of the *Occupational Health and Safety Act 2004* (Vic).
Harm minimisation – the goal of policing activities is to minimise harm caused by the actions of officers or the actions of others. This extends beyond the use of force and physical injuries to include human rights, psychological and emotional harm and other effects on community safety and confidence.

61 Victoria Police Manual – Operational Safety and Use of Force, p 3.

62 Ibid.

4.2.2 Roles and responsibilities at incidents and emergencies

Victoria Police's Incident Command and Control System (ICCS) provides officers with a functions-based incident management system when responding to serious incidents.[63] Under the ICCS, one officer (known as the police forward commander) has operational command of police resources at an incident or emergency and is in charge of the scene. Depending on the scale of the response required, another officer (known as the police commander) may have overall strategic command of police resources and provide direction, supervision and support for the police forward commander.

Where an incident requires CIRT (or other specialist support), a tactical commander should be appointed. This person reports to the police forward commander. The CIRT tactical commander must conduct a risk assessment and discuss the tactical options with the officer in charge, to determine the most appropriate action to manage or resolve the incident. The officer in charge must agree that the tactical plans are consistent with the incident objectives.[64]

After consulting with the CIRT tactical commander, the police forward commander may approve CIRT to resolve an incident by force – if the incident cannot be resolved by other means, or if any delay in resolving the incident may increase the likelihood of serious injury to the public, police, hostages or offender. The CIRT tactical commander can take emergency action to resolve an incident if satisfied that immediate action is needed to prevent serious injury to the public, police, hostages or offender.

Following an incident, the relevant CIRT team leader is responsible for arranging an incident debrief. The purpose of the incident debrief is to assess the strategy and tactics used and identify lessons that can be learned, what worked well, and areas for improvement.

4.2.3 The Inflation Nightclub incident

Failure to undertake appropriate risk assessments and planning can have serious consequences, particularly during serious incidents that present risks to the safety of victims, offenders, police or bystanders.

During the Inflation Nightclub incident, the officer in charge, CIRT tactical commander and CIRT senior supervisor did not make an adequate risk assessment that was consistent with the Operational Safety Principles. They also failed to re-assess the risks as the incident progressed and they received further information.

These failures in assessing risk included:

- failing to notify the Special Operations Group when an offender is armed with a firearm, as required by Victoria Police's policies
- deviating from the (then) Operational Safety Principles that required officers to avoid violent confrontations, to use only the minimum amount of force necessary where force cannot be avoided, and to accept that the 'safety first' principle may require the deployment of more resources, planning and time
- failing to analyse the risks that the incident was presenting, the environment in which it was taking place, and the known conduct of Person B, before moving to consider available police response capabilities
- not appropriately considering that the plan for CIRT officers to confront Person B in the nightclub limited CIRT's tactical options, and was wholly reliant on Person B complying and surrendering without resistance
- not altering the plan after receiving first-hand information from a licensed security guard who had examined the firearm and found it to be an imitation.

CIRT officers stated they confronted and challenged Person B, who responded by pointing the imitation firearm at them. In response, two of the CIRT officers shot and injured Person B and their companion, Person C. There are conflicting witness accounts about whether Person B pointed the imitation handgun at officers and Person B denied they did so.[65]

63 Victoria Police Manual – Emergency Management Response, p 1.
64 Victoria Police Manual – Specialist Support, p 2.
65 In their statement to police, Person B stated that they had their back to the police, and they did not hear or see anything but realised the police had surrounded them before being shot.

4.2.4 Training and capability

CIRT and other frontline operational officers are expected to assess the risk of each decision they make in the field, including:

- identifying hazards or risks
- assessing the likelihood of the risk, and the consequences
- evaluating the effectiveness of risk controls
- re-evaluating the risk after accounting for risk controls
- deciding on the most appropriate policing response
- managing risk appropriately in unfamiliar situations and under pressure, while anticipating the possible actions of others.

Victoria Police's internal review following the Inflation Nightclub incident found that the training that CIRT provided to its officers was incomplete and did not refer to relevant external standards (such as the Australian Standards on risk management) or Victoria Police materials (such as Victoria Police's Arrest Strategy Options and Forced Entry Risk Assessment). The review also found CIRT did not deliver any advanced training in dynamic risk management or assessment to CIRT sergeants, senior sergeants or inspectors. This shortcoming created a capability gap and led to organisational risk.

4.2.5 Opportunities to prevent misconduct

Reforms implemented by Victoria Police

Victoria Police advised IBAC that risk assessment training at CIRT is currently covered in:

- CIRT's eight-week induction training
- the team leader course (five days)
- the tactical commander course (two days).

Following the Inflation Nightclub incident, lessons learned on risk assessment were communicated within CIRT. In August 2020, Victoria Police's Quality Education Division reviewed CIRT training, including risk assessments. In response to this review, CIRT developed a two-day tactical commander course for all senior sergeants and inspectors, focused on dynamic risk assessments and management and the roles and relationships between the CIRT tactical commander and the officer in charge of an incident (police forward commander).

The CIRT team leader development course was revised in 2019. It now includes sessions on risk assessment and decision-making processes, including contingency planning and mitigating risks in emergency or critical incidents. Inspectors, senior sergeants and team leaders are required to attend their respective development courses annually to maintain competency.

CIRT now also includes risk assessment as a skill on assessment templates throughout CIRT training, to make sure that competency in risk assessment is observable, assessable and measurable.

CIRT is continuing to work with the Quality Education Division to make sure that CIRT officers can apply their training in the field.

In response to the Bourke Street incident, Victoria Police updated its policies for 'critical incidents' to include investigations or incidents that are escalating in risk and to provide guidance on trigger points for activating a higher level of supervision and risk assessment by officers. The concept of continual risk assessment is now integral to the Operational Safety Framework, the Operational Response Principles, and the Operational Safety Tool.

In May 2020, Victoria Police updated the CIRT Standard Operating Procedures – Sergeant Responsibilities. It specifies that, following deployment by CIRT, a CIRT primary response sergeant must undertake a risk assessment. The document then sets out a list of questions, prompts and considerations for decision makers and leaders.

Further opportunities for reform

There is an opportunity to equip CIRT officers with a principles-based approach to assessing risk (similar to the approach of the Operational Response Principles). Risk assessment principles could help prevent subjective interpretations of what a risk assessment is, its purpose, and what is an acceptable methodology. There is a range of external guidelines to which Victoria Police could refer in developing a principles-based approach.[66]

4.3 Governance and compliance

Operations Lynd and Wingan and the Inflation Nightclub incident highlighted several inadequacies in CIRT regarding governance, and policy compliance and understanding – namely, in regard to deployments and acting consistently with the Charter during arrests and handovers.

4.3.1 Deployment of CIRT

Inadequacies with CIRT deployments

Failure to communicate intention to attend incidents

In Operations Lynd and Wingan, CIRT attendance was not requested, but CIRT officers decided to attend the incident and assist. However, the CIRT officers did not communicate their intentions to any other responding officers.

In Operation Lynd, the CIRT supervisor was monitoring footage recorded on an iPad in the police helicopter as it followed the stolen vehicle through several suburbs. Officers in the police helicopter requested assistance from available police units and the Dog Squad. The CIRT supervisor made the decision to attend Hares & Hyenas to help the Dog Squad locate and arrest the offender, but did not communicate this intention to the officer in charge or the CIRT tactical commander. In their statement to IBAC, the officer in charge said that they were not aware of CIRT's attendance until advised over police radio that a person was in custody. Therefore, the officer in charge no longer had operational command of the incident as required under Victoria Police's Incident Command and Control System. Under this system, CIRT is required to report to the officer in charge and discuss tactical options to resolve the incident.

66 These principles could be informed by:
- AS ISO 31000:2018 Risk Management – Guidelines, **www.iso.org/standard/65694.html**
- Victorian Government Risk Management Framework Practice Guide 2020, **https://www.dtf.vic.gov.au/sites/default/files/document/VictorianGovernmentRiskManagemenFramework-August2020.pdf**
- Australia New Zealand Policing Advisory Agency, ANZPAA Guide for Managing Work Health and Safety in Australian Policing (Operational) 2017. **https://www.google.com/ArticleDocuments/guide-for-managing-health-safety-australian-policing-operational.pdf**

In Operation Wingan, the two CIRT officers who attended stated that they heard over police radio a report of the incident involving the attempt to arrest Person A, and decided to attend and offer assistance because they were nearby and believed that the incident met CIRT's deployment criteria. However, CIRT attendance had not been requested, and the two CIRT officers did not communicate their intention to attend the incident to the emergency services radio operator, their supervisors, or the police officers who were attempting to arrest Person A.

By not communicating their intentions to attend these two incidents, the CIRT officers failed to apply the Operational Safety Tool.

Failure by CIRT officers to communicate their intentions to the officer in charge or other responding officers when responding to an incident could reduce the effectiveness of any plan already in place to resolve the incident, and could create confusion over who has operational control.

'Assist' versus 'deploy'

When giving evidence in Operations Lynd and Wingan about responding to the incidents in question, the CIRT officers spoke about assisting as opposed to deploying.

One officer explained that a CIRT deployment is a response to a formal request for assistance by general duties officers that is approved by CIRT management. A CIRT assist is when CIRT officers are on patrol in their vehicles and hear an incident unfolding via police radio and decide of their own accord to respond, even though formal assistance has not been requested or approved, or when an incident might not meet CIRT's deployment criteria. In an assist, CIRT does not take responsibility for an incident, and may need to leave to attend an incident where its assistance has been formally requested.

Another CIRT officer told IBAC that any CIRT officer can decide to assist if they believe it is necessary, regardless of whether assistance has been requested.

As discussed in Section 2.2 of this report, before March 2019, CIRT data recorded only those incidents where CIRT attendance had been formally requested. In 2017 and 2018, CIRT recorded attending 244 and 365 incidents respectively. In 2019, when assists were also recorded, CIRT was recorded as attending 1132 incidents – more than a threefold increase.[67]

Although CIRT officers should respond to escalating serious incidents and emergencies, assisting instead of deploying presents a number of difficulties. As occurred in Operations Lynd and Wingan, CIRT officers assisting without their attendance being requested can lead to problems in communication with other attending officers and/or the officer in charge. This is demonstrated in the evidence that a CIRT officer gave in Operation Wingan, noting that, when CIRT is deployed there are briefings:

> [about] what the situation is, what the mission is, how it's gonna be executed, um, all the admin, logistics, communications and in amongst all of that, would be that the [person of interest] would be arrested under whatever – whether it's criminality, mental health, whatever the case is … so ordinarily, yes, it would form part of it. Um, in this situation, I don't believe it did. I don't believe we had that conversation prior to getting on ground.

67 Victoria Police reported that, due to a technical problem between October and December 2019, only approved deployments were recorded for that period, rather than all tasks attended.

Also, CIRT officers may be entering an incident unsure of who is in charge, and/or disrupting any response plans already put in place by responding officers. This was demonstrated in Operation Lynd:

> **Deputy commissioner:** [W]ho was in charge from Victoria Police [regarding] that incident?
>
> **CIRT officer:** I don't know.
>
> **Deputy commissioner:** Did you have any understanding at the time … even just which unit was in control, in command?
>
> **CIRT officer:** We're in Fitzroy, the 251, I guess. That's the sergeant from that area or whichever was looking after that area. But these are things that are grey area in Victoria Police … that local sergeant wants CIRT to take over, but we're not allowed to take over unless it's official deployment.

Victoria Police's policies set out clear roles and responsibilities for CIRT deployments, but do not provide for CIRT assists. Confusion about roles and responsibilities can then affect understanding of tactical options and responses and risk assessments, which then have implications for how force may be applied. Victoria Police advised IBAC that it is updating the relevant policy to include CIRT assists, but the policy was not finalised at the time of writing.

Decisions not to deploy

2017 Bourke Street incident

The coronial inquiry into the January 2017 Bourke Street incident identified problems with the interpretation of CIRT's deployment criteria.

Around 4.20 am on 20 January 2017, CIRT attendance was requested by general duties officers to assist with arresting the Offender, who at the time had not been located. The general duties officers were advised that, until they could locate the Offender at an address or in his vehicle, CIRT resources could not be committed, although CIRT would actively monitor the situation. The request for CIRT assistance was denied at this time.

The Coroner found that the circumstances at this time could have met the criteria for CIRT deployment, because:[68]

- there was good reason to believe that the Offender was armed with a weapon
- the Offender had been involved in a serious stabbing that caused life-threatening injuries to his brother, indicating that there was a probability of a future violent confrontation
- it had been broadcast over police radio that the Offender was mentally unstable, and intervention was potentially beyond the scope, expertise and capability of general duties officers
- the Offender's phone was pinging in locations within a radius of approximately 100 metres
- CIRT deployment criteria do not require a confirmed location for an offender before deploying
- CIRT was available to deploy at the time
- CIRT was advised of the registration details of the vehicle the Offender was driving, and of the Offender's history of taunting police, driving on the wrong side of the road, and engaging in high-speed pursuits.

68 Coroner's Court of Victoria 2020 (Coroner Jacqui Hawkins), *Coronial Inquest into the Deaths of Matthew Poh Chaun Si, Thalia Hakin, Yosuke Kanno, Jess Mudie, Zachary Matthew Bryant, Bhavita Patel*, p 123.

The Coroner concluded that CIRT could have been more proactive in offering advice or assistance, and that the interpretation of the CIRT deployment criteria was rigid and the decision not to deploy was not appropriately considered or adequately assessed for risk, given what was known at the time about the Offender.[69] CIRT did deploy later in the day to help locate the Offender.

IBAC review of serious incident

As part of its reviews function, IBAC identified an instance of CIRT deciding not to deploy in circumstances that appeared to meet CIRT deployment criteria. In May 2019, local police attended an industrial workshop in response to a person making suicidal statements. The local police were aware that, two days earlier, the person had made suicidal statements and said that they would harm police by using an improvised explosive device. For this reason local police requested assistance from CIRT and the Dog Squad. However, only the Dog Squad attended. CIRT decided to monitor the situation, but advised that it did not meet its criteria for attendance.

IBAC found this decision concerning, as the CIRT deployment criteria include mental health–related incidents where persons are threatening suicide, where there is a probability of a violent confrontation, or where it is likely that the person is armed with a weapon, and when CIRT equipment is likely to provide the most appropriate level of response.

The incident ended with the officers deploying a police dog. This caused serious injuries to the person. In the Dog Squad's use-of-force and debrief report, a supervisor noted that CIRT's equipment, such as a Taser and bean bag rounds, could have been used before deploying a police dog.

Limits on CIRT's deployment capability

IBAC reviews have also identified concerns regarding CIRT's ability to respond in a timely manner to incidents in regional Victoria.

Because CIRT is located in the Melbourne central business district, it can take CIRT two or more hours to reach an incident in regional Victoria.[70]

In one instance, CIRT negotiators deployed within 20 minutes of being alerted to a request for assistance in response to a person locking themself in a rural property and making suicidal statements. It took CIRT officers approximately two hours to reach the location from their headquarters in Melbourne. The evidence indicates that the person took their life at approximately the same time as CIRT arrived on scene. In another similar incident, a teenager attempted to take their life while CIRT negotiators were en route to the regional location.

Training for regional negotiators ceased in 2012, but was re-established in 2017 as a one-day course to upskill frontline officers and mitigate risks before CIRT's arrival on scene.

During the COVID-19 pandemic in 2020 and 2021, CIRT was located in smaller, satellite offices to help prevent the spread of the virus. During this time, CIRT was able to respond to more requests for assistance and arrive on scene more quickly than when located centrally in Melbourne. However, CIRT has since returned to a Melbourne base.

Mental health–related incidents make up the majority of negotiator callouts.[71] In 2020 CIRT held a trial in which 15 negotiators acted as a stand-alone negotiation unit and attended incidents involving mental health concerns where a full tactical CIRT deployment was not required.[72] During the trial, incidents were more likely to be resolved without force, and the negotiators were able to help build the communication capabilities of frontline general duties officers.[73]

The trial also allowed negotiators to provide support at more incidents where they were needed, because they did not need to attend all CIRT tactical deployments.[74] The success of the trial has resulted in the permanent establishment of a stand-alone negotiation unit in CIRT.

69 Ibid., pp 123–124.
70 Victoria Police has advised that since August 2020, it has enhanced its AirWing capability to transport CIRT officers in response to critical tasks outside the metropolitan area.
71 Roslyn Jaguar, 'Speaking up', *Police Life: The Victoria Police Magazine*, Summer 2020–21, pp 8–9, **www.issuu.com/policelife/docs/11562_vpo_policelife_summer_20-21_fa2_hr**.
72 Ibid.
73 Resolution without force rose from 71 per cent of incidents to 84.6 per cent. Where three or more negotiators attended, this rate rose to 91.7 per cent.
74 During the trial period negotiator deployments increased by 141 per cent over the pre-trial period.

4.3.2 Human rights

Arrest and handover procedures

IBAC found that in Operation Lynd CIRT officers failed to caution Person E and advise them of their rights or release them from custody. In Operation Wingan, officers did not inform Person A of the reason for their detention.[75] In both instances, the officers involved may have acted inconsistently with section 21(4) of the Charter, which requires that a person who is arrested or detained must be informed of the reason for their arrest or detention.

Despite these failings, neither apprehension was unlawful.[76] Officers had the legal powers to apprehend both Person E and Person A.[77,78,79]

IBAC found that CIRT lacked a handover procedure for individuals in CIRT custody. This could have contributed to Person E not being advised that they were under arrest and not being properly advised of their rights. CIRT officers involved in the arrest of Person A told IBAC that CIRT was only there to assist and therefore was not responsible for Person A, nor for explaining the reason for their apprehension.

Relevant recommendations and Victoria Police responses

IBAC made recommendations to Victoria Police regarding Operations Lynd and Wingan, including that Victoria Police:

- advise why officers had failed to act consistently with the Charter of Human Rights and Responsibilities during the apprehension of Person E and Person A
- take action in relation to the failure of officers to caution Person A and advise them of their legal rights
- establish a formal custody handover procedure for CIRT.

Victoria Police responded to IBAC's recommendations between August 2020 and March 2022. Victoria Police advised as follows:[80]

Operation Lynd

Victoria Police had investigated the actions of the CIRT supervisor who failed to provide Person E with the reason for their arrest or their rights as required under section 21(4) of the Charter Act. The officer was provided with workplace guidance.

Person E was not provided with the reason for their arrest because the CIRT officer in charge was of the view that, once CIRT had gained compliance and handed custody of Person E to the Criminal Investigation Unit (CIU) officer, the CIU officer would advise Person E. The CIU officer quickly realised that Person E was not the offender and arranged for them to be transported to hospital, and therefore did not take them into custody.

CIRT has adopted a process identical to the formal handover procedure used by the Special Operations Group. This has been communicated to all CIRT officers and is documented in CIRT's Standard Operating Procedures.

75 The police forward commander (officer in charge) stated that Person A was apprehended under section 351 of the Mental Health Act. Therefore, because Person A was not being arrested for a crime, officers did not need to caution Person A or advise them of the rights.

76 The Charter does not state that a breach of human rights constitutes a criminal offence (see the Charter Act, section 39). A person may seek a remedy for a breach of human rights as part of other legal proceedings seeking relief or remedies, such as a judicial review of civil claims.

77 Person E was arrested on reasonable but mistaken grounds. Under section 461 of the Crimes Act this is not an unlawful arrest.

78 Section 459 of the Crimes Act gives police the power to arrest someone without a warrant if officers believe on reasonable grounds that the person to be arrested has committed a serious indictable offence. IBAC found this belief to be reasonable in the circumstances.

79 There were grounds to apprehend Person A under section 351(1) of the Mental Health Act because their behaviour indicated that they were a risk to themself and others, and also under sections 458(1)(a) and 459 of the Crimes Act because of the criminal damage caused when they left the Northern Hospital.

80 IBAC 2020, *Response from Victoria Police, Operation Lynd – Investigation Summary,* viewed 12 April 2022, **www.ibac.vic.gov.au/publications-and-resources/article/investigation-summary---operation-lynd#response**.

Operation Wingan

The failure of officers involved in the incident has been addressed and the officers accept that they could have done better.

CIRT had implemented new arrest and handover procedures.

OC spray aftercare

IBAC found that Person A, after being apprehended, was not given adequate OC spray aftercare in accordance with Victoria Police policy (that is, flushing the affected areas with cool water as soon as practicable).[81] IBAC recommended that Victoria Police take action in relation to the attending officers.

Evidence obtained by IBAC indicates that there is not a standard requirement for police vehicles, including CIRT vehicles, to carry sufficient water for OC spray aftercare. Officers instead rely on mains water or their own drinking water.

In its own review of the incident, Victoria Police noted that there was limited water available to give Person A adequate aftercare, but did not identify this as a problem that needs to be fixed.

IBAC recommended that Victoria Police review its policies, procedures and training for OC spray use and aftercare, to make them consistent with Victoria Police's duty of care to officers and members of the public and obligations under the Charter. This should include introducing measures to have suitable water available for first aid and OC spray aftercare.

Victoria Police advised IBAC in March 2022 that it considers its policies and training on OC spray use and aftercare to be consistent with the Charter. In addition, each CIRT vehicle is now equipped with water. However, Victoria Police is still considering the potential for other operational police vehicles to carry a suitable water supply.

4.3.3 Problems when more than one unit attends an incident

When more than one unit – such as CIRT, general duties officers, or detectives – attends the scene of an incident, it is important that all officers understand their roles and responsibilities.

In addition to confusion or lack of understanding about arrest and handover procedures when CIRT is present, IBAC has identified problems with roles and responsibilities for notifying Victoria Police's Professional Standards Command (PSC) of a serious incident.

Victoria Police policy requires the officer in charge to consult with PSC to determine whether an event involves a death or serious injury or illness.[82] PSC will then determine whether to attend the scene. PSC is responsible for overseeing all investigations where there has been a death and, in some cases, may oversee investigations of serious injury or illness, to ensure the investigation's integrity.[83]

IBAC found that there were delays in notifying PSC of serious incidents that CIRT attended. Notifications to PSC were delayed by more than two hours for 20 out of 32 incidents between February 2020 and December 2021.

Although notifying PSC is not always the responsibility of CIRT, it appears that there are more likely to be delays when more than one unit is in attendance, suggesting that there may be a lack of clarity about people's roles. IBAC has noted similar concerns with the Special Operations Group and Dog Squad.

Not understanding roles and responsibilities when more than one unit attends an incident is also a risk in relation to reporting the use of force, as noted in Operation Wingan.

81 Victoria Police, Oleoresin Capsicum Manual, p 33.
82 Victoria Police Manual – Death or Serious Injury/Illness Incidents Involving Police, p 5.
83 Ibid., p 4.

4.3.4 Body-worn cameras

Body-worn cameras (BWCs) are small, overt cameras worn by police officers when they are performing operational duties. BWCs are designed to create both audio and video recordings of police interactions with members of the public, as well as real-time video evidence at crime scenes and incidents. Each Australian state and territory has trialled or implemented BWCs for its police force since 2014.

The use of BWCs is governed by the *Surveillance Devices Act 1999* (Vic). Victoria Police also has a stand-alone policy on BWCs.

Victoria Police officers wearing a BWC must start recording:

- when exercising a legislated or common-law power such as the arrest or detention of person(s) for any offence, and when conducting searches of persons, property or premises, with or without a warrant
- to record an incident that is occurring, is likely to occur, or has occurred.[84]

CIRT's use of body-worn cameras

CIRT received BWCs for operational work in January 2020.[85] CIRT officers are required to deploy with BWCs regardless of their specified duties.

CIRT also uses BWCs to record:

- officers' rationale for their actions in the moment, such as urgent driving
- their advice to, and planning discussions with, police forward commanders
- debriefs following incidents where there are injuries (including minor injuries) or where conducted energy devices are deployed
- while cautioning or advising of rights to persons under arrest.

Victoria Police has advised that CIRT officers tend to activate their BWCs fewer times per day on average than do general duties officers. General duties officers activate their BWCs for public interactions generally not undertaken by CIRT (for example, attending a crime scene, responding to reports of family violence, checking a vehicle). CIRT officers generally attend (and activate their BWCs at) significant operational incidents.

Victoria Police informed IBAC that CIRT officers' compliance with BWC requirements is subject to monthly inspection reports. CIRT supervisors routinely review BWC footage during debriefing processes, to make sure that officers are complying with training, policies, and procedures for collecting evidence.

Operation Wingan

In Operation Wingan, IBAC found that both CIRT officers and a general duties officer involved in the pursuit and arrest of Person A did not activate their BWCs in accordance with Victoria Police requirements.

The CIRT officers told IBAC that they forgot to turn on their cameras. The electronic patrol duty return submitted by the CIRT officers noted that they could not activate their BWCs, due to the dynamic nature of the incident. Approximately five minutes lapsed between the time when the CIRT officers became aware of the incident involving Person A and when they arrived on scene. IBAC assessed that this was enough time for them to activate their BWCs.

Three other general duties officers involved in the arrest of Person A did activate their BWCs.

In its review of the incident, Victoria Police concluded that CIRT officers' failure to activate their BWCs was "solely a result of CIRT being only relatively recently allocated BWCs", and that they did not have the same length of experience using BWCs as their general duties colleagues.

84 It is also recommended that officers start a BWC recording on any other occasion where they believe that a recording is necessary and would help to:
- provide transparency of a public interaction or police activity
- collect evidence
- record briefings such as tactical and safety briefings as directed by the police forward commander where it is not possible to make written notes.

Officers should not activate their BWCs when there is a reasonable expectation of privacy (for instance, in changing rooms), unless the exercise of the police power or duty of function outweighs the privacy expectation or human right being limited. BWCs must not be used during a full or intimate search of a person.

85 IBAC 2020, *Response from Victoria Police, Operation Lynd – Investigation Summary*, viewed 12 April 2022, **www.ibac.vic.gov.au/publications-and-resources/article/investigation-summary---operation-lynd#response**.

A failure to activate all BWCs might lead to important evidence not being recorded, could hinder Victoria Police's and IBAC's investigations of an incident, and might contribute to a perception that police officers are deliberately hiding their interactions with the public when performing their duties.

IBAC recommended that Victoria Police:

- advise IBAC on what action it is taking to ensure that BWCs are activated in accordance with policy, including in dynamic situations
- identify and remedy non-compliance with BWC policies and guidelines
- make sure that officers understand that a failure to activate their BWC (without a recognised exception) may constitute a disciplinary offence
- take action against the officers who failed to activate their BWCs.

In March 2022, Victoria Police advised that BWC activation was being reinforced during operational safety and tactics training (OSTT) and other training programs, through a communications strategy, and by the dissemination of reference guides. Punitive action is taken in instances where there are deliberate attempts to mask activation. Furthermore, to identify and deal with non-compliance, Victoria Police has constructed a 'data dashboard' that allows supervisors to oversee individual officers' use of BWCs.

4.4 CIRT's culture

Police culture includes the attitudes, values and norms of officers. In policing organisations, frontline officers, detectives, elite units and even different stations can each have different sub-cultures. These cultures are neither homogenous nor unchanging.

Following Operations Lynd and Wingan, concerns about CIRT's culture were raised with IBAC. Cultures in organisations can play a significant role in both enabling and preventing misconduct. However, IBAC was limited in its ability to investigate CIRT's culture. This was in part due to the data available and IBAC's jurisdiction.

For these reasons, IBAC focused on CIRT's gender diversity and complaints about CIRT officers whose misconduct may reflect cultural problems.

4.4.1 Lack of diversity in CIRT

CIRT lacks gender diversity among its members.

Gender diversity and equality

As of September 2021, there were 13 female members of CIRT and 152 male members.[86] Although Victoria Police as a whole is male dominated, with men making up around 71 per cent of sworn officers,[87] men make up around 90 per cent of CIRT officers. CIRT leaders and Victoria Police's Professional Standards Command have acknowledged that the small proportion of female CIRT officers continues to be a problem.

Victoria Police is currently working to implement a 10-year plan to achieve sustainable gender equality by 2030.[88] Only three of Victoria Police's 25 commands and departments have equal representation of male and female police officers. Counter Terrorism and Transit Safety Command, which CIRT is a part of, has a very low number of female police officers or Victorian Public Service employees; in 2019, 84 per cent of police officers in this command were men.[89]

86 At the time, 18 positions in CIRT were vacant.
87 Victoria Police 2020, *Annual Report 2020–2021*, p 66, **www.police.vic.gov.au/annual-report**.
88 Victoria Police 2020, *Equal, Safe & Strong: Victoria Police Gender Equality Strategy 2020–2030*, **https://www.police.vic.gov.au/gender-equality-strategy**.
89 VEOHRC 2019, *Independent Review into Sex Discrimination and Sexual Harassment, Including Predatory Behaviour, in Victoria Police: Phase 3 Audit and Review*, p 184, **www.humanrights.vic.gov.au/resources/independent-review-victoria-police-phase-3/**.

As of April 2022 there were two female negotiators in CIRT, and very few male CIRT officers from culturally diverse backgrounds.[90] A CIRT sergeant commented that this made it harder for negotiators to build credibility and rapport with people in crisis who have different backgrounds from the negotiators.[91] Gender inequality also diminishes Victoria Police's capacity to respond effectively to community needs, such as in cases of family violence, sexual offences and child abuse.[92]

Gender inequality and sex discrimination in Victoria Police also harm its officers,[93] and can lead to misconduct against fellow officers – particularly in areas where women are under-represented.[94] Such misconduct can range from passing over qualified candidates for promotions, to bullying, to sexual harassment and assault.

Cultural diversity

Gender inequality can often be compounded for those who are LGBTIQ, of Aboriginal or Torres Strait Islander heritage, from culturally and linguistically diverse backgrounds, or who have a disability.[95]

In a 2019 report about the experiences of LGBTIQ police employees, the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) found that, although there are workplaces in Victoria Police where LGBTIQ employees are safe and included,[96] homophobia, transphobia and a hypermasculine and heteronormative culture continue to lead to harmful workplace behaviour against some LGBTIQ employees.[97] This behaviour includes homophobic and transphobic comments, aggressive language, sexual harassment and discrimination.[98] VEOHRC did not specifically investigate CIRT as part of that report, but it did note concerns regarding homophobia in specialist units in Victoria Police.[99]

Given the limitations of this report, IBAC is unable to make findings on the prevalence, if any, of sexual harassment, homophobia, transphobia or other forms of discrimination in CIRT, including towards female CIRT officers, or members of the public with whom CIRT interacts as part of its work. However, recent research involving Victoria Police indicates that gender inequality can heighten these risks.

90 Roslyn Jaguar, 'Speaking up', *Police Life: The Victoria Police Magazine*, Summer 2020–21, pp 8–9, **www.issuu.com/policelife/docs/11562_vpo_policelife_summer_20-21_fa2_hr**.
91 Ibid.
92 Victoria Police 2020, *Equal, Safe & Strong: Victoria Police Gender Equality Strategy 2020–2030*, p 5, **https://www.police.vic.gov.au/gender-equality-strategy**.
93 Gender inequality is when someone does not have equal rights, responsibilities or opportunities because of their gender. Sex discrimination is when someone is discriminated against because of their sex, gender identity or sexual orientation.
94 VEOHRC 2019, *Independent Review into Sex Discrimination and Sexual Harassment, Including Predatory Behaviour, in Victoria Police: Phase 3 Audit and Review*, p 160, **www.humanrights.vic.gov.au/resources/independent-review-victoria-police-phase-3/**.
95 Victoria Police 2020, *Equal, Safe & Strong: Victoria Police Gender Equality Strategy 2020–2030*, p 7, **https://www.police.vic.gov.au/gender-equality-strategy**.
96 VEOHRC 2019, *Proud, Visible, Safe: Responding to Workplace Harm Experienced by LGBTI Employees in Victoria Police*, p 4, **www.humanrights.vic.gov.au/resources/proud-visible-safe-may-2019/**.
97 Ibid.
98 Ibid, p 8.
99 Ibid, pp 41–42.

CIRT's efforts to increase its diversity

In 2015, VEOHRC recommended that, to reduce sex discrimination and improve gender equality, Victoria Police should review the role requirements for roles where women are under-represented, such as CIRT.[100] This includes a systemic review of what constitutes capability in selection processes and explicitly including criteria such as interpersonal skills, management expertise and managing safe and inclusive workplaces in the selection criteria for all management roles.[101]

In December 2021, Victoria Police provided an update to IBAC on the implementation of VEOHRC's recommendation. Victoria Police reported that in 2019 CIRT reviewed its training requirements. This review was based on a 2015 collaboration with Deakin University in which the university recommended a physical test for CIRT applicants that reflected the inherent requirements of being a CIRT officer. Victoria Police did not provide further detail on the results of the 2019 review, including whether it increased the number of female CIRT officers, and did not discuss whether the results of this review differed from any actions arising from the initial 2015 collaboration with Deakin University.

Victoria Police also reported that it intends to reduce gendered barriers to application processes across the force by applying gender impact assessments to position profiles and descriptions as part of Victoria Police's Gender Equality Action Plan 2022–24.[102]

CIRT has taken steps such as providing women-only information sessions and offering a women-only testing day. However, female CIRT officers reported that this was counterproductive, making them feel as if they were 'gifted' positions because of their gender, and that they had to work harder to prove that they deserved their positions.

In December 2021, CIRT commenced a project under the Gender Equality Action Plan 2022–24 with Victoria Police's Gender Equity and Inclusion Command, to better understand the barriers preventing women from joining CIRT. CIRT has advised IBAC that it intends to develop strategies and actions to remove these barriers and implement a gender equality action plan.

100 VEOHRC 2015, *Independent Review into Sex Discrimination and Sexual Harassment, Including Predatory Behaviour, in Victoria Police: Phase One Report*, p 35, **https://www.humanrights.vic.gov.au/resources/independent-review-victoria-police-phase-1/.**

101 VEOHRC 2019, *Independent Review into Sex Discrimination and Sexual Harassment, Including Predatory Behaviour, in Victoria Police: Phase 3* Audit and Review, p 185, **www.humanrights.vic.gov.au/resources/independent-review-victoria-police-phase-3/**.

102 Gender impact assessments are designed to help organisations think critically about how policies, programs and services will meet the different needs of women, men and gender-diverse people. Victoria Police's Human Resources Department is responsible for this action.

4.4.2 Complaints about CIRT officers' behaviour

Between 1 July 2017 and 30 June 2021, Victoria Police received 78 allegations relating to CIRT officers' behaviour or conduct. These allegations accounted for 61 per cent of all allegations against CIRT officers during this period.

Allegations against CIRT officers, 2017/18 – 2020/21

Allegation type	2017/18	2018/19	2019/20	2020/21	Total
Behaviour	5	10	7	5	**27**
Civil process	–	1	1	–	**2**
Discrimination	–	–	1	–	**1**
Duty failure	–	18	13	2	**33**
Breach of Human Rights Charter	–	–	–	1	**1**
Information	–	–	1	4	**5**
Malfeasance		3	1	5	**9**
Total	**5**	**32**	**24**	**17**	**78**

- 33 allegations were categorised as 'duty failure'. This included failing to inform a supervisor (9 allegations); failing to comply with a direction or disobeying a lawful instruction (5 allegations); failing to inform or provide legal rights (2 allegations); and unauthorised outside employment (2 allegations).
- 27 allegations were categorised as 'behaviour'. This included having an aggressive or uncivil attitude or an insensitive manner (8 allegations); improper behaviour (7 allegations); conflicts of interest (5 allegations); abusive, aggressive, and insulting language (4 allegations); and threatening behaviour (1 allegation).
- 9 allegations were categorised as malfeasance. This included sexual offences (2 allegations); theft of property (2 allegations); criminal association (1 allegation); declaring false information (1 allegation).
- 9 allegations were categorised as information, civil process, discrimination, or breach of the Charter, and related to improper use, disclosure and unauthorised release of information (3 allegations); deliberately falsifying a police document (2 allegations); family violence safety notice (1 allegation); intervention order (1 allegation); victimisation for making a complaint (1 allegation); and breaching human rights (1 allegation).

Substantiated allegations about CIRT officers' behaviour, 2017/18 – 2020/21

Allegation type	No. of allegations substantiated
Behaviour	5
Duty failure	9
Breach of Human Rights Charter	1
Malfeasance	1
Total	**16**

Outcome of substantiated allegations about CIRT officers' behaviour, 2017/18 – 2020/21

Allegation	Admonished	Charged with criminal offence	No action (resigned)	Penalty notice	Workplace guidance	Total
Behaviour	3	1	–	–	1	**5**
Duty failure	2	–	1	–	6	**9**
Breach of Human Rights Charter	–	–	–	–	1	**1**
Malfeasance	–	–	–	1	–	**1**
Total	**5**	**1**	**1**	**1**	**8**	**16**

- 16 of the 78 allegations relating to behaviour and conduct were substantiated. Substantiated allegations were most likely to result in workplace guidance (8 allegations), followed by an admonishment (5 allegations).
- 5 substantiated allegations of duty failure were connected to one incident, in which 4 officers failed to inform a supervisor of a serious injury that occurred during training. The outcome of these allegations was admonishment (2 allegations), workplace guidance (2 allegations), and no action – resigned (1 allegation).
- 3 substantiated allegations (2 allegations of behaviour and 1 allegation of duty failure) were connected to an incident involving three officers, where one of the officers threatened and intimidated the ex-partner of their relative. The outcome of these allegations was admonishment (1 allegation) and workplace guidance (2 allegations).
- A further 3 substantiated allegations (2 allegations of duty failure and 1 allegation of acting inconsistently with human rights) were connected to Operation Lynd and the failure to inform Person E of their legal rights and reason for their arrest. The outcome of these allegations was workplace guidance.

The remaining substantiated allegations related to:

- 1 allegation of sexually inappropriate behaviour occurring while on duty, which resulted in an admonishment
- 1 allegation of improper behaviour in connection to the incident where a person was allegedly assaulted in police custody (as noted in Section 3.4.3), which resulted in the officer being charged with a criminal offence
- 1 allegation of failing to comply with an operating manual, which resulted in workplace guidance
- 1 allegation of improper behaviour and one allegation of malfeasance related to separate off-duty driving offences, which resulted in an admonishment and a penalty notice respectively.

Operation Wingan

IBAC also found that CIRT Officer 2 directed unprofessional comments towards Person A at the scene after they had been apprehended. These comments were not identified in Victoria Police's review of the incident, which described officers' treatment of Person A as compassionate, professional, and representative of a positive culture. IBAC recommended that Victoria Police take disciplinary action against the officer. Victoria Police advised that the CIRT officer received workplace guidance for their comments.

5 Conclusions

5 Conclusions

Operations Lynd and Wingan and Victoria Police's review of the Inflation Nightclub incident found that CIRT officers failed to accurately and comprehensively report their use of force, undertake adequate risk assessments, obtain authorisation for deployment, and act consistently with human rights. IBAC has also identified concerns regarding CIRT's lack of gender diversity.

Inadequate risk assessments, and actions that breach a person's human rights, place people at risk of harm. Victoria Police's system for reporting the use of force limits the capacity of Victoria Police and IBAC to accurately analyse CIRT's use of force (and to oversee the use of force generally across all officers and units). CIRT's lack of diversity also means that it does not represent the Victorian community; this can reduce the effectiveness of its responses to incidents and the way it is perceived by the community.

Apart from CIRT's lack of gender diversity, IBAC has raised these misconduct vulnerabilities with Victoria Police and made recommendations to remedy them. Since 2020, Victoria Police has responded by:

- commencing work on a new use-of-force database for use across Victoria Police
- analysing CIRT's need for training in risk assessment
- reviewing CIRT's deployment policy
- progressing work under Victoria Police's Gender Equality Action Plan 2022–24 to increase the number of women in CIRT.

CIRT officers are responsible for responding to high-risk incidents, often involving people experiencing crisis. Given the difficult nature of this work, it is important that Victoria Police trains, equips, supervises and supports its officers appropriately.

Victoria Police must build on the work it has already done to further mitigate any risk of misconduct by CIRT. There are also opportunities for Victoria Police to apply the findings and recommendations of this report across the entire organisation, particularly to its other specialist units, to help prevent misconduct and to protect officers and the community.

Appendices

Appendix 1: Methodology

This report draws upon a range of sources, including IBAC investigations, IBAC reviews and overseeing of Victoria Police investigations, Victoria Police policies and procedures, and data related to CIRT (outlined below).

Investigations related to CIRT

This report draws predominantly on materials and evidence collected during IBAC's Operation Lynd and Wingan investigations and its overseeing of Victoria Police's review of the Inflation Nightclub incident. This included interviews and examinations of CIRT officers, Victoria Police policies and processes, witness statements, and closed-circuit television (CCTV) and body-worn camera (BWC) footage.

IBAC also analysed other materials for this report, including:

- IBAC reviews of Victoria Police complaint investigations involving CIRT officers undertaken between 1 July 2020 and 30 March 2022
- the Coroner's investigation report into the January 2017 Bourke Street incident.

Other information and data on CIRT

IBAC received additional information and data on CIRT from Victoria Police, including:

- details of complaints made about CIRT officers between July 2017 and June 2021
- CIRT policies and procedures
- data on CIRT's use of body-worn cameras
- advice on Victoria Police's response to recommendations on risk assessments, arising from the Inflation Nightclub incident review
- data on CIRT's gender diversity.

Appendix 2: Natural justice requirements and responses

Where an adverse comment or opinion has been made about any person (or public body) identified in this report, that person (or public body) has been given a reasonable opportunity to respond to those comments or opinions by being shown a draft version of the report. In accordance with sections 162(2) and (3) of the IBAC Act, responses that did not result in changes between the draft report and the final report are set out in this appendix.

Response from Victoria Police

Introduction

The report infers there is a large systemic issue of misconduct within the CIRT however there are only a few examples provided in the report. The examples of incidents within the report are individual events and not connected, therefore Victoria Police does not agree that they are a 'series of incidents'. Victoria Police also disagrees with the term 'misconduct issues'.

Inflation Nightclub incident

The CIRT members questioned the credibility of the security guard due to his evasiveness. The attending police were not satisfied with the accuracy of the information as detailed in the members statements.

Reporting use of force

The use of force register is not the only medium used to record incidents and promote learnings. CIRT undertake de-briefs, investigations, learnings and base training on lessons learned.

Mental health related deployments

PRIME training has been focusing on the delivery of training to the regions, so CIRT do not have any dedicated courses at this time and are unlikely to receive training until November 2022. There is an e-learning package available to all officers that provides some learnings prior to attending a PRIME course. The estimated roll out of PRIME training across the state is four years.

CIRT currently has seven operators trained in PRIME. Approximately 30 negotiators are currently having their current competency assessed for recognition with respect to PRIME training.

Complaints about the CIRT

Victoria Police acknowledge the number of allegations, but in isolation there is no context to other areas or jurisdictions to determine if this is high, low or expected.

Operation Wingan

Person A was at the hospital for 18-19 hours. If Person A got the health care and attention they needed, it may not have resulted in a police matter.

Response from Person A

It is Person A's view that based on the mobile phone footage of the incident that IBAC's findings are fundamentally flawed. This footage is not referred to in the report. It is the position of Person A and their legal representative that based on this footage, the officers involved in the incident assaulted Person A and should have faced criminal charges.

It is Person A's view that this matter sets a precedent for Victoria Police officers, including CIRT officers, to use excessive force and that IBAC's findings do not reflect the community's expectations of police officers.

The report and the findings of IBAC do not deal with the use of a vehicle by police to ram an individual (as occurred in this matter). This conduct is not permitted under either the common law, *Crimes Act* or Victoria Police policy. However, there is no mention of this in the Special Report.

Person A has not been provided with a copy of, or opportunity to view, the body-worn camera footage and other material that IBAC relied upon. Therefore, it almost impossible for them to comment on the veracity or contents of the special report, which seems to be largely based on this footage. They requested to be provided with a copy of the footage or an opportunity to view it.

IBAC comment: IBAC considered all the available evidence and was satisfied that force used was lawful in the circumstances. IBAC is legally prohibited from sharing the body-worn camera footage.

Response from Person E

Person E issued proceedings against Victoria Police for injuries sustained by Victoria Police on 11 May 2019. In the Post-Mediation Directions Hearing, submissions were made relating to the issues in dispute. It was in this hearing that a document referred to as the 'Franks Report' was mentioned. This report was produced by a senior Victoria Police officer in respect of the incident. IBAC should obtain, view and consider the 'Franks Report'.

Since IBAC published its investigation summary on Operation Lynd there has been a development in the law regarding when the use of force is proportionate and lawful. This involves section 462A of the *Crimes Act 1958* (Vic) and the Court of Appeal decision in *Gebrehiwot v State of Victoria* [2020] VSCA 315. The lawfulness of the chase, contact, arrest and force used were matters that were only justified if they were in compliance with the law. Section 462A of the *Crimes Act 1958* (Vic) requires both a subjective and objective analysis as explained by the Court of Appeal.

Appendix 3: Previous recommendations

Operation Lynd

IBAC made its recommendations to Victoria Police in May 2020. Victoria Police responded between August 2020 and January 2021.

IBAC recommendation	Victoria Police response
That Victoria Police advise IBAC why CIRT officers failed to act consistently with the Charter of Human Rights and Responsibilities by not informing Person E at the time of their arrest of the reason for the arrest, and advise IBAC of any disciplinary action taken against CIRT officers in response.	Victoria Police advises that it has investigated actions of officers with respect to the arrest of Person E. The acting sergeant in charge of CIRT received workplace guidance for failing to provide Person E with the reason for their arrest and failing to provide them their caution and rights and therefore breaching section 21(4) of the Charter of Human Rights and Responsibilities. Victoria Police further advises that Person E was not told the reason for their arrest, because the acting sergeant in charge of CIRT was of the view that, once they had gained compliance and handed custody of Person E to the Criminal Investigation Unit (CIU) member, the detective would attend to that. The CIU member indicated that he quickly realised that Person E was not the wanted offender and arranged for Person E to attend hospital, and therefore did not take Person E into custody.
That Victoria Police establish a formal custody handover procedure for CIRT, to make sure that individuals are detained by Victoria Police in a manner that is lawful and consistent with the Charter of Human Rights and Responsibilities.	Victoria Police advises that CIRT has adopted a process identical to the formal handover procedure used by the Special Operations Group. This has been communicated to all CIRT members and is recorded in Standard Operating Procedures. It requires CIRT members to: • inform the person why they have been arrested • administer caution and rights • ask whether they are an Aboriginal or Torres Strait Islander person • request that the police forward commander, or their representative, attend the scene for formal handover • record the handover time and note any visible injuries to the person in custody.

IBAC recommendation	Victoria Police response
That Victoria Police, as part of its continuing review of its use-of-force reporting system, review its policies, procedures and training to make sure that use-of-force reporting is appropriate, accurate, timely and consistent, and that CIRT members are complying with their obligations.	Victoria Police advises that its policy on 'Operational safety and the use of force' governs use-of-force reporting and has been updated effective 20 June 2020. Bulletin board advice published on 30 December 2019 advised employees to accurately report when force has been used. A new system for reporting the use of force is being considered. Implementation of the new system will depend on the availability of funding. If a new system is implemented, it will be accompanied by a suitable educational program to ensure consistency and accuracy in reporting. An additional point is being included in the instructions for the use-of-force form: "Where a person received a serious injury resulting from the use of force by police, PSC must be notified". Formal face-to-face training in the use of force is currently delivered to recruits, protective security officers and police custody officers as part of foundation training. Deficiencies in reporting in CIRT were identified, resulting in training being delivered to CIRT training officers in July 2020, which covered topics including policy requirements, reasons for reporting, and common mistakes, among others. Following that training, communication from CIRT management to officers included detailed instructions covering 12 topics around the timely, complete and accurate reporting of circumstances when force is used. CIRT's current practice is for supervisors to conduct a debrief after every incident involving the use of force, and to make sure that organisational requirements, including use-of-force reporting, are completed.

IBAC recommendation	Victoria Police response
That Victoria Police provide IBAC with information related to CIRT, including: • the status of deployment of body-worn cameras • details of all ROCSID (Victoria Police Register of Complaints and Serious Incident Database) files involving CIRT for the two-year period 2017–19 • an analysis of the complaint histories of all current CIRT members • details of Professional Standards Command/CIRT vetting procedures for assessing the complaint records of prospective CIRT officers • equipment-management records for CIRT for 2017–19, including lost-equipment reports and armoury audits.	Body-worn cameras In January 2020, CIRT received body-worn cameras (BWC) for use during operational work. CIRT's use of BWC is governed by the VPM – Body Worn Cameras, and CIRT Standard Operating Procedures – Body Worn Cameras. BWC are a focus of the current operational safety and tactics training (OSTT) package and are incorporated into all OSTT practical exercises. Register of Complaints and Serious Incident Database (ROCSID) Victoria Police recorded 22 complaint or oversight files related to CIRT in 2017/18 and 2018/19. Of these, five files included allegations that were substantiated. Four of the five substantiated files related to off-duty conduct or incidents. Analysis of complaint histories for current CIRT members There is a total of 95 complaint files concerning 55 employees who were a subject member before joining CIRT. There is a total of 33 complaint files concerning 26 employees who were a subject member since joining CIRT. There were 12 substantiated matters, against 10 employees. The following actions were taken: • workplace guidance – four employees • admonishment – three employees • resigned – one employee • court – one employee • penalty notice – one employee. The details of each substantiated matter, including action taken by Victoria Police in response, are included in a spreadsheet provided to IBAC.

IBAC recommendation	Victoria Police response
	Vetting procedures for prospective CIRT officers ROCSID reports are generated for all applicants who apply for vacancies in Victoria Police, including CIRT positions. The selection panel is given the ROCSID reports of all shortlisted applicants to help it assess 'good conduct', which is defined as the aptitude and special qualifications necessary for the discharge of the duties of the position in question. The selection panel can ask questions about previous discipline matters, or complaint history, if the panel deems it necessary to clarify any concerns that may affect the applicant's suitability to be promoted or transferred. Further probity checks are conducted for selected applicants, to see whether there are any active investigations or matters. Should there be an active investigation, further enquiries may be conducted. Managing equipment CIRT maintains records of accountable equipment (including armoury items), which are audited three times each day. When an accountable item cannot be located, the person to whom the item is issued is required to compile a report outlining the circumstances of the loss and attempts made to locate the item. This report is accompanied by supporting documents and submitted to the Equipment Issue Office. The loss is recorded on the asset register and the report is forwarded up the chain of command. A table detailing all items reported lost or unaccounted for in the period 2017–19 has been provided to IBAC. It details seven lost items, two of which were subsequently found. Standard Operating Procedures provide guidance to CIRT officers in managing and handling equipment.

Operation Wingan

IBAC made its recommendations to Victoria Police in July 2021. Victoria Police responded in March 2022.

IBAC also recommended that Victoria Police take disciplinary action against specific officers for identified failings and conduct during the incident.

IBAC recommendation	Victoria Police response
Further to IBAC's recommendations following Operations Boyne and Durack, Victoria Police should make sure that its review of the use-of-force reporting system provides policies, procedures and training that give officers clear guidance on: • how and when the use of force should be reported • which officers are responsible for submitting reports on the use of force • which officers should review or endorse the use-of-force report, particularly when reporting force used by officers from more than one police unit.	How and when force should be reported is appropriately recorded in the current Victoria Police Manual (VPM) – Operational Safety and Use of Force, and reinforced through training: • annual operational safety and tactics training (OSTT) cycles in 2015, 2020 and 2021 • targeted presentations to specialist units • foundation training sessions: police, protective service officers (PSO), police custody officers (PCO). All foundation members (recruit students) attend a presentation on completing and submitting a use-of-force (UOF) report. Victoria Police Manual – Operational Safety and Use of Force, section 10.4, stipulates that the officer in charge of the incident is responsible for the initial submission of the report. The UOF forms should be checked by a supervisor before submission to the UOF registry. Consultation has taken place to develop a session in the Sergeants' Qualifying Program to make sure that supervisors understand the responsibility for 'compilation, coordination and submission' of UOF forms (including where more than one unit is involved) and how to review same. This will be progressed for further research to understand the viability of implementing this change. The new session plan will then be included in a future syllabus. The Victoria Police Manual – Operational Safety and Use of Force has not been reviewed at this time. UOF reporting compliance has been discussed by the Operational Safety Committee, which has influenced the allocation of funding to upgrade IT systems for UOF reporting, to move away from paper-based manual reporting. This was identified as a causal factor for poor compliance. A trial of this system is awaiting approval at Victoria Police executive level across four nominated sites in metropolitan, regional and specialist areas. Success measures for the trial are: i) reduced time in compiling UOF reports; ii) increased quality of UOF reports; iii) reduced delay in submitting UOF reports; iv) increased compliance in submitting UOF reports. This has been prioritised in advance of policy review as a cause of poor policy adherence. Once IT infrastructure for UOF reports is endorsed and implemented, amendments to the Victoria Police Manual – Operational Safety and Use of Force will follow, and a communication strategy developed to support these changes.

IBAC recommendation	Victoria Police response
That Victoria Police review policies, procedures and training on OC spray use and aftercare, to make them consistent with Victoria Police's duty of care to officers and members of the public and obligations under the Victorian Charter of Human Rights and Responsibilities, including any measures that could be introduced to have suitable water available for first aid and OC spray aftercare.	The Victoria Police Manual – Operational safety and Use of Force, the Victoria Police Manual – Operational Safety Equipment, and the Oleoresin Capsicum (OC) Manual 2019 are consistent with duty-of-care obligations for officers and members of the public, and meet the requirements under the Charter. OC spray use and aftercare are documented in numerous foundation training sessions (theory and practical). A review has found that this training is consistent with duty of care to officers and members of the public, and meets obligations under the Charter. The provision of suitable water for OC spray aftercare is situational and is provided as soon as practicable. Officers should consider the use of a garden hose (in metropolitan settings) or the nearest available water source, including moving a person to the source (in rural settings). The provision of water in police vehicles would enhance the duty of care available to officers for members of the public and further meet obligations under the Charter. The potential for police vehicles to carry suitable cool water is being explored and will be progressed separately for further research to consider the viability of implementation/change. Each CIRT vehicle is now equipped with water, as a requirement of the CIRT function to provide the community with a tactical medical (tac-med) response and to make sure that CIRT members maintain hydration when deployed.

IBAC recommendation	Victoria Police response
That Victoria Police advise IBAC what action it is taking to: • make sure that body-worn cameras are activated in accordance with policy, including in dynamic situations • identify and address non-compliance with body-worn camera policies and guidelines • make sure that officers understand that a failure to activate their BWC (without a recognised exception) may constitute a disciplinary offence.	Enhancements have been made to operational safety and tactical training (OSTT) since December 2020. The content includes activation requirements, reinforced through the amended call of 'gloves, glasses, BWC activation' to enhance muscle memory via immersive scenarios. In 2021 the twice-yearly OSTT Hot Topics e-learning focused on BWC activation. Victoria Police has also employed a communications strategy, reference guides and ongoing training to reinforce BWC activation. To identify and address non-compliance with BWC policies and guidelines, a 'data dashboard' now allows supervisors to search for governance, including an 'activation' search function that provides an overview of individual activation status. Supervisors and managers can select a timeframe to view: • all BWC users from their station or work unit, division and region • how many videos their BWC users have taken • what footage has and has not been categorised • the average number of videos each officer has made per day • if officers have recorded no footage. Workplace inspection reports are to include dashboard compliance data. The dashboard is also a standing agenda item at meetings of local professional standards committees, to highlight and deal with compliance shortcomings. Victoria Police policy stipulates that failure to activate BWCs (without a recognised exception) may constitute a disciplinary offence. However, the focus has been to improve the capability of officers through education and training. Punitive measures are taken if there is a deliberate or overt attempt to mask activation, access evidence etc. contrary to policy. Professional Standards Command has identified BWCs as a key priority for 2021–22. Actions are being identified to encourage officer compliance, including further communications.

IBAC recommendation	Victoria Police response
That Victoria Police review policies, procedures and training on the use of police vehicles as 'other weapons' under the Victoria Police Tactical Options Model, including: • whether Victoria Police should provide greater guidance on when and how a police vehicle can be used as a weapon against an individual • whether Victoria Police's current policies, procedures and training on the use of police vehicles as weapons are consistent with those of other Australian jurisdictions.	Significant consultation has occurred with the Hostile Vehicle Attack Technical Advisory Group (HVA TAG), Tactical Operations Model (TOM) Community of Practice, and the Operational Safety Division. A decision was made not to expand the 'desirable features' of the TOM – Other Weapons for guidance on the use of motor vehicles as a tactical option. Empirical studies have found that expanding the TOM can reduce its usefulness, because of the risks associated with the amount of choice on decision making. The Operational Safety Division reviewed the requirement for improved guidance on the use of a police vehicle as 'other weapon' in existing training, policies and legislation. The Operational Safety Division is of the opinion that the specific introduction of vehicle use as a weapon into the TOM – Other Weapons would invite an exhaustive list of devices, objects or instruments that may need definition. The TOM in its current format is a significant document and is understood by members in the context of the Defensive Tactics Manual and use-of-force policy. It is expected that members will understand the application of these documents; however, it is acknowledged that, as decisions are made in an operational setting, police members rely on section 462A of the Crimes Act. Currently there is no data to indicate a systemic problem with the use of vehicles as a tactical option. An intelligence brief on Vehicle – Use of Force is being developed, which examines the frequency and circumstances involving both police and subject vehicles. This includes consultation with the National Policy Unit and use of the Australia New Zealand Policing Advisory Agency network on policies, procedures and training. Operational safety critical incident reviews continued to be examined against training, manuals, and policy documents to support the continuous improvement process. In the construction of existing training and policy on hostile vehicle attack, the Operational Safety Division (as part of the HVA TAG), collaborated with the Australian-New Zealand Counter Terrorist Committee and other Australian law-enforcement bodies to make sure that guidance and training strategies on vehicle interdiction tactical options are consistent.

Inflation Nightclub incident

IBAC wrote to Victoria Police about its concerns regarding Victoria Police's investigation of the Inflation Nightclub incident in May 2019. Victoria Police responded in September 2019.

IBAC recommendation	Victoria Police response
It appears that the Armed Crime Squad investigation was entirely focused on the conduct of the two civilians involved in the incident with a view to determining whether criminal charges could be sustained against them. It appears that there has been no investigation or consideration regarding the lawfulness of the actions of police who were present at the scene.	The Armed Crime Squad assumed primacy of the investigation as per Victoria Police policy. CCTV footage and all other available evidence were recovered as exhibits from the venue. Statements were obtained from all police witnesses involved in the incident, including the CIRT members involved in the shooting, patrons at the nightclub and nightclub staff. The two civilians who sustained gunshot injuries did not make statements to police at the time. Statements were provided on their behalf through their legal representatives at a later date. Armed Crime Squad investigators took into account the circumstances of the incident, including the actions of Person B and their possession of the firearm, available statements from police and other witnesses, CCTV footage, Taser footage and the actions of police during the course of the investigation. The two police members directly involved in the shooting made statements claiming that Person B pointed a handgun at them when challenged. Fearing for their safety, both police members discharged their weapons in self-defence. Four other CIRT members made statements that they saw Person B point a handgun at police. The statements from the CIRT members were all overseen by an independent Professional Standards Command (PSC) investigator. On the information available there was no evidence at the scene to suggest collusion or that the police members had acted inappropriately or unlawfully. Therefore, the CIRT members were treated as witnesses rather than as suspects. Person B and Person C refused to make statements to police, so there was no opportunity for investigators from Armed Crime Squad or Professional Standards Command to question or clarify events leading up to the shooting and the incident itself. A brief of evidence was subsequently prepared against Person B for a range of offences and forwarded to the Office of Public Prosecutions. However, a decision was ultimately made not to proceed with the charges.

IBAC recommendation	Victoria Police response
IBAC could find no evidence that a critical incident review (CIR) of the incident has been conducted, as required by the Victoria Police Manual. Further, there were indications that the CIR had been suspended due to legal advice. If Victoria Police failed to complete a CIR due to the commencement of civil action by the civilians, and concerns that any identified shortcomings in the actions of the police may assist the plaintiffs with their civil action, IBAC would consider Victoria Police's decision and motivation in this regard to be completely inappropriate. This situation may present an unacceptable ongoing risk to the public, in that any operational lessons and improvements that may be available to Victoria Police will not be identified and implemented, and any operational failings will be perpetuated.	The Deputy Commissioner (Regional Operations) determines whether an Operational Safety Review Committee is required to examine a death or serious injury or illness (DSII) incident, by nominating a superintendent as the reviewing officer. On 1 November 2017 former Deputy Commissioner Crisp nominated an acting superintendent to conduct a review, and it was scheduled for 19 December 2017. Former Deputy Commissioner Crisp directed postponement of the review on receipt of legal advice from the Civil Law Division. The review was postponed on 18 December 2017. To date, Victoria Police has not conducted a review into the incident. Person B and Person C commenced civil proceedings against Victoria Police shortly after the incident at Inflation Nightclub and this matter is ongoing. A formal CIRT briefing on the incident was conducted on 20 July 2017. The briefing highlighted a need for CIRT members to improve their understanding of post-incident action at the scene of a DSII event. Armed Crime Squad and PSC investigators were not invited to the briefing. In the final oversight report, under the heading 'Organisational Learning', a detective sergeant addressed the knowledge gap in respect of CIRT members and their understanding of DSII requirements. This gap has been formally addressed with the development of a training package for all CIRT qualification courses. PSC has assisted CIRT with the development of the training package.
The Professional Standards Command oversight report states that the actions of police during this incident were justifiable and lawful. Given the apparent lack of any investigation into the actions of police, it is unclear how those conclusions could be reasonably reached and upon what evidence they were based.	Professional Standards Command (PSC) investigators oversaw the investigation of the police shooting at Inflation Nightclub in accordance with the established oversight principles. PSC investigators reviewed all available evidence and statements during the oversight process. The CIRT members involved in the incident all made statements a matter of hours after it occurred. PSC investigators were present to oversee these statements. Six of the seven CIRT members stated that they saw Person B produce a handgun and point it at police. It was later discovered that the handgun was an imitation. The two members who discharged their firearms stated that they were responding to a threat and feared for their lives. CCTV footage from the nightclub (although of poor quality) and the Taser audio were consistent with the statements of the CIRT members. There was no evidence of misconduct by the CIRT members involved in the incident, and no evidence of the scene being tampered with or of collusion by any officer after the shooting occurred. There was sufficient corroboration and evidence to reinforce the fact that Person B had a handgun, which was later found to be an imitation, while he was at the nightclub. The PSC oversight investigation considered all aspects of the incident. On all the available evidence investigators determined that the CIRT members acted in lawful self-defence.

ibac independent broad-based anti-corruption commission
Victoria

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