

Te Kāhui Tātari Ture | Criminal Cases Review Commission

Inquiry into eyewitness identification evidence in Aotearoa | New Zealand

Updated and Amended Terms of Reference – December 2025

Background

Te Kāhui Tātari Ture | Criminal Cases Review Commission (the Commission) has the power to initiate and conduct inquiries into matters of a general nature identified while performing its functions and duties which it considers may be related to miscarriages of justice. In its first years of operation the Commission identified issues relating to eyewitness identification evidence (or visual identification evidence) in several of the applications it considered, including two applications that it referred to appeal courts.

In early 2023, the Commission prepared a paper ‘Eyewitness identification evidence in Aotearoa’, summarising that experience and identifying issues for further consideration. The Commission circulated that paper to various justice sector stakeholders to seek feedback on the possibility of an inquiry. At that point the principal focus of the issues raised was the requirements for formal identification procedures found in s. 45 of the Evidence Act 2006.

As a result of the feedback received, in March 2024, Te Kāhui publicly announced the commencement of a s12 Inquiry into eyewitness identification evidence. The intended scope included analysis of a variety of additional factors related to cognitive and social psychology that impact upon the reliability of identification evidence and the efficacy of judicial directions relating to visual identification evidence.

Expert advice received in the course of the Inquiry to date has highlighted the complexities associated with the cognitive and social sciences that underlie the risks associated with identification evidence. The experts also raised concerns with the original timeline proposed. We have taken that advice on board.

A Refined Timeline and Scope

In August 2024, Te Kāhui extended the original timeline and committed to completing a final report by July 2026. This was in response to a need to prioritize our primary function of reviewing convictions and sentences as well as input from the expert panel.

The scope of the Inquiry has also been refined to reflect that consultation with experts and stakeholders. In particular, whilst insights from cognitive and social sciences can help to explain and understand the risks associated with identification evidence, they depend on fluid and growing areas of scientific research. Building on earlier insights, the Inquiry will now focus on current legislative requirements and police practices for formal procedures under s.45 of the Evidence Act, whether they reflect current best practice and identifying improvements. The aim is to enable the Commission to produce recommendations that will enhance the overall quality of identification evidence adduced in criminal trials in New Zealand.

Reporting

A draft report including any potential recommendations will be circulated for consultation in April 2026 and a final report will be published and provided to the Minister of Justice before 30 June 2026.