



26 August 2014

Alex Harris

By email to: [fyi-request-1782-b59fda19@requests.fyi.org.nz](mailto:fyi-request-1782-b59fda19@requests.fyi.org.nz)

Dear Sir

**REQUEST FOR INFORMATION - INVESTIGATION OF ELECTION OFFENCES**

I refer to your request to New Zealand Police dated 3 July 2014, for information regarding the investigation of election offences.

I am aware of the Newstalk ZB report that you described in the introduction of your request. Whilst it is true that police have not prosecuted any of the referrals made by the Electoral Commission since 2011, the majority of those cases have been dealt with and resolved by police. I have enclosed some additional information for you from our Election Related Offending (ERO) Project regarding those referrals - refer enclosed sheet "ERO referral resolutions since 2011".

Your questions and my responses to them are below:

***"How many staff are currently assigned to investigate these offences?"***

No police staff are assigned full time to investigate election related offences. I have enclosed a part of our police manual chapter titled 'Investigating election related offences' which describes how we manage election offending, using a project under the National Criminal Investigations Group.

A Detective Senior Sergeant in my group manages the ERO Project during General elections and any By-elections and maintains an ongoing liaison with Electoral Commission staff regarding election matters.

The ERO Project sends any referrals requiring investigation, which cannot be dealt with by the project, to the relevant police district for assigning to an investigator. When district enquiries are completed those cases are returned to the project for final resolution recommendation and approval.

***"How many hours have they spent on the investigations in the past year?"***

We do not record the hours spent on each investigation. This part of request is therefore refused under Section 18(e) of the Official Information Act 1982, in that the information requested does not exist.

**Safer Communities Together**

**NATIONAL CRIMINAL INVESTIGATIONS GROUP**

180 Molesworth Street, PO Box 3017, Wellington, New Zealand

Telephone: (04) 474 9499 Facsimile: (04) 498 7409 [www.police.govt.nz](http://www.police.govt.nz)

***"If the police have any system for prioritising investigations, what priority is assigned to these investigations, and to Electoral Act investigations in general?"***

The Police have a national case management system. When a report is made to police it is entered in this system. Any case entered is automatically categorised from its offence code into one of four categories:

- 1 - Mandatory
- 2 - Critical
- 3 - Priority
- 4 - Volume

Category 4 cases go through an initial file assessment process to decide whether they should be referred to an investigation unit or closed early due to no available lines of enquiry.

Categories 1, 2 and 3 cases must be assigned to an investigation unit for prioritisation. The manager of the investigation unit will use the system to rate the file. This gives a case rating score, which enables the unit to prioritise the case against all other cases assigned to that unit. In addition to this objective score, the case may be allocated a tag indicating that it is either upgraded or downgraded. This tag allows for factors other than the objective score that may determine that a case should be handled with either a higher or lower priority than the raw score would suggest.

Offences against the Electoral Act 1993 are statutory offences that come under Category 3 - Priority. As most are referred by the Electoral Commission direct to our ERO Project, the project completes the initial assessment and in a number of cases retain the case for investigation.

In reality the offences referred to police outside the dual voter and late candidate returns are administrative or lower end of the scale offences related to election advertising and receive a low raw score. However the ERO Project endeavours to ensure all referrals are resolved due to the public interest in election offending.

If you are not satisfied with my response to your request you have the right to complain to the Office of the Ombudsmen and seek an investigation and review of my decision.

Yours sincerely



Greg Williams  
Detective Inspector  
Acting National Manager: Criminal Investigations

encl.

## **ERO referral resolutions since 2011**

### **2011 General Election**

**93 referrals in total for Electoral Act or Broadcasting Act offences made up of:**

**62 dual vote referrals** - 32 warned; 29 no offence (11 insufficient evidence; 18 clerical error could not be ruled out by Electoral Commission); 2 unresolved. [A total of 63 - one referral resulted in 2 warnings]

**9 late candidate return referrals** - 6 warned, 3 no offence

**22 advertising or broadcasting referrals** - 15 warned, 4 no offence, 3 unresolved (1 with an unidentified fingerprint, 1 anonymous flyer with no offender identified, 1 still enquiries proceeding)

From 2011 there have been four By-Elections as follows:

#### **Botany**

**3 referrals** - 1 warning, 2 no offence

#### **Te Tai Tokerau**

**1 referral** - 1 warning

#### **Ikaroa Rawhiti**

**6 referrals** (all dual voters) - 6 warnings

#### **Christchurch East**

**1 referral** - 1 warning

#### **Notes:**

- Most referrals are for first time offenders. When Solicitor Generals Prosecution Guidelines are applied, warnings are the most appropriate course of action.
- As a comparison for the 2008 General Election police received 88 referrals. Prosecuted seven cases. Two late candidate return offenders received \$300 and \$400 fines respectively. One completed police diversion and four got warnings from the court.
- Position taken with past referrals has been that prosecution should be used for those previously warned for similar offending and those cases that are deliberate and/or high end offences under the Electoral & Broadcasting Act.



## Investigating election related offences

Complaints around election processes generate much controversy, attract debate and media attention. Consequently any investigation and prosecution, or lack thereof, by Police could also receive considerable publicity.

Police are committed to actively investigating any complaints made during election campaigns.

This part of the chapter outlines the process to be followed when Police receive complaints relating to alleged electoral campaign offences committed under any of this legislation:

- Electoral Act 1993 (Reprint as at 1 January 2011) (& subsequent amendments)
- Broadcasting Act 1989
- Citizens Initiated Referenda Act 1993.

Most complaints are received in election years, but they may also be received during by-elections and in non-election years, in relation to annual party financial and donation returns.

### Managing electoral campaign offence complaints

All complaints or investigations concerning electoral campaign offences will be centrally coordinated and monitored through the National Manager: National Criminal Investigations Group (NCIG) at PNHQ. This will ensure a consistent and timely approach. An Election Related Offending (ERO) Project will be maintained within the National Criminal Investigations Group at PNHQ on an on-going basis.

#### District liaison officers

A senior investigator must be appointed to act as an ERO liaison officer in each district. The ERO liaison officer's role is to:

- be the contact point between the ERO Project and the district
- ensure all election related complaints or incidents in the district are referred to the National Manager: NCIG (via the ERO Project)
- ensure complaints referred back to the district are investigated effectively and expeditiously
- ensure completed investigation files are forwarded to the National Manager: NCIG, for a decision on resolution (via the ERO Project).

District Commanders must appoint a district ERO liaison officer and register the name of that officer with the ERO Project, PNHQ.

#### Process when complaints are received

The bulk of ERO complaints are received directly by the ERO Project from the head office of the relevant electoral agencies, so it should be the exception that a complaint is made at district.

This is the process when complaints about electoral campaign offences are received or an alleged electoral related offence is identified.

| Stage | Action/description  |
|-------|---|
| 1     | Record the complaint or the incident. Enter the case in NIA using Offence Codes: <ul style="list-style-type: none"> <li>• 7516 - Breach of Electoral Act 1993</li> <li>• 7983 - Breach of Broadcasting Act 1989</li> <li>• 7980 - Breach of miscellaneous statute (for Citizens Initiated Referenda Act 1993 offences)</li> </ul> |

This is an uncontrolled document printed for reference only.

The controlled document can be found in the Police Instructions site which is accessible via the New Zealand Police Intranet.





|   |   |
|---|---|
| 2 | Refer all complaints to the National Manager: NCIG. Do this by sending an email to: <a href="mailto:ero.project@police.govt.nz">ero.project@police.govt.nz</a> using Microsoft Outlook and copy to your district ERO liaison officer.<br><b>Note:</b> Police do not need to receive a complaint to initiate action.   |
| 3 | Decisions to investigate or prosecute will be made by the National Manager: NCIG. Files may be referred back to originating districts (via district liaison officers) for action or sent to another district if a conflict of interest arises.  |
| 4 | The investigating officer to whom the file has been referred takes follow-up action and provides updates to the ERO Project on an agreed schedule.<br><b>Note:</b> Employees investigating complaints must comply with MOU 2007/4 <u>Policing functions within the Parliamentary precincts</u> during the investigation of election related offending complaints. |
| 5 | Completed investigation files are returned to the ERO Project via the district ERO liaison officer for a decision on the appropriate resolution (warning, prosecution etc).   |
| 6 | The National Manager: NCIG provides a fortnightly status report to Police Executive Management regarding all electoral related offending.   |

### Media and Official Information Act requests

All media and Official Information Act requests about electoral related offending must be referred to the National Manager: NCIG.

### Contact for notifications and enquiries

Send notifications and enquiries to the ERO Project Team by:

- Emailing [ero.project@police.govt.nz](mailto:ero.project@police.govt.nz)
- Mailing to ERO Project, National Criminal Investigations Group (NCIG), Level Two, PNHQ, DX SX11149 Wellington
- Telephoning ext 44549
- Faxing (04) 498 7409 or ext: 42609.