

9 December 2022

Ed Whakatihi

**By email only to:** [fyi-request-21110-da360a35@requests.fyi.org.nz](mailto:fyi-request-21110-da360a35@requests.fyi.org.nz)

Tēnā koe

### **Official Information Act Request (Our Ref: OIA/0238)**

We refer to your Official Information Act Request of 11 November 2022.

Your request:

As reported by RNZ on the 8/9/22 the NZ Police had breached the Privacy Act in regards to photos taken of Maori Youth over a 10yr Period.

Were the NZ Police as an organization fined or financial penalized for the Breach as per this Section of the Privacy Act-

Offence to fail to notify Commissioner

(1)

An agency that, without reasonable excuse, fails to notify the Commissioner of a notifiable privacy breach under section 114 commits an offence and is liable on conviction to a fine not exceeding \$10,000.

If No Why Not?

Had the NZ Police Notified the Privacy Commissioner of the breach?

If so what was the date of the notification?

### **Response to your request**

The answer to your question is that the Police have not been fined or financially penalized for the issues identified in relation to the photographs of rangatahi.

To explain, section 118 of the Privacy Act does not apply to this type of privacy breach.

Section 118 applies for certain types of privacy breach as defined in section 112 of the Privacy Act that relate to unauthorised access to or loss of personal information (for example where information is hacked, lost or compromised in a cyber attack).

Although the Police were not fined, the Privacy Commissioner issued the Police with a compliance notice under the Privacy Act and there was a joint inquiry with the Independent Police Conduct Authority.

The main focus of the inquiry was on the collection of photographs rather than the loss or compromise of data.

An overview of the joint report is also available on our website:

<https://privacy.org.nz/publications/commissioner-inquiries/ipcaopc-joint-inquiry-into-police-conduct-when-photographing-members-of-the-public/>

## **Conclusion**

I hope this helps to explain the compliance action taken to respond to the identified breach of the Privacy Act.

If you are dissatisfied with my response, you have the right, under section 28(3) of the Official Information Act, to make a complaint to the Ombudsman seeking a review of my response to your request.

Nāku iti noa, nā

*J. M. Hayward.*

Joanna Hayward  
**General Counsel**