

# Hon Chris Hipkins

MP for Remutaka

Minister of Education

Minister of Police

Minister for the Public Service

Leader of the House



OIA0864

Scott

[fyi-request-20876-b8094506@requests.fyi.org.nz](mailto:fyi-request-20876-b8094506@requests.fyi.org.nz)

Dear Scott

Thank you for your Official Information Act 1982 (OIA) request of 17 October 2022 in which you sought:

*copies of all aides-mémoire, memoranda, briefings, and reports held by the minister in his role as Minister for Police on the topics of the joint IPCA/OPC investigation into Police photographing members of the public; Police's internal review of matters raised by the investigation; and Police's responses to the investigation and the review.*

In February 2021, my predecessor received one briefing that provided a national overview of Police's approach to the photographing of children and young people. A copy of this has been attached. Some information has been withheld under 9(2)(a) of the OIA, to protect the privacy of natural persons.

It is important to note that this document was written before the announcement of the joint inquiry. Police has accepted the findings of the joint inquiry and acknowledged the joint inquiry's broader findings into practices and policies regarding taking photographs of members of the public.

I have received one briefing document in relation to this matter. I am withholding this document pursuant to section 9(2)(f)(iv) of the OIA, to maintain the constitutional conventions for the time being which protect—the confidentiality of advice tendered by Ministers of the Crown and officials.

However, I note Police has accepted the findings of the joint inquiry and has acknowledged the broader findings into practices and policies regarding taking photographs of members of the public. Police has embarked on a training program that aims to increase awareness of the need to appropriately manage images once they have served their investigative or prevention purpose. I am confident this ongoing commitment to balancing investigation requirements with the public's right to privacy will remain a central concern for Police.

I trust that this information will be of use to you. You have the right to ask the Ombudsman to review my decision if you are not satisfied with my response to your request.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'CH' followed by a stylized flourish.

**Chris Hipkins**  
**Minister of Police**

## INFORMATION REQUEST

### Photographing of young people

Deadline: 2 February 2021

Date of Response: 2 February 2021

#### Purpose

1. This information sheet provides you with details pertaining to an incident in the Wairarapa, which has been subject to media reports regarding racial profiling and the taking of photographs of young people. This also includes an overview of the ongoing Police and IPCA investigation into this matter.
2. It also provides you with the national overview of Police's approach to the photographing of children and young people. This includes the further work Police is undertaking to ensure that our practices are fit-for-purpose and maintain public trust and confidence.

#### Police has the ability to take photographs in limited circumstances

3. Police has the ability to take photographs of children (aged 10-13) or young persons (aged 14-17) in two circumstances:
  - **where there is a legal authority** – if a young person is arrested under section 214 of the Oranga Tamariki Act 1989, Police can collect identifying particulars (including photographs), under section 32 of the Policing Act 2008.
  - **with the young person and their parent/s' consent** – Police may also take a photograph if the young person and their parent and/or guardian provide consent.
4. Police also has the authority to take a young person's fingerprints in these circumstances.

#### The incident in the Wairarapa

5. In August 2020, Police in the Wairarapa took three photographs of young people of interest. These photographs were taken in the context of an investigation into a recent series of thefts of motor vehicles and other unlawful takings.
6. A subsequent review of the files of the young people concerned identified that these photographs were not taken with either the correct legal authority or necessary informed consent. Both hard copy and digital copies of these photographs were subsequently destroyed.
7. A communication was sent to all Wairarapa staff clarifying the circumstances in which Police may lawfully take photographs of children and young people.
8. Police is currently undertaking a Category A investigation into the behaviour and actions of the officers involved in the Wairarapa incident, which will be overseen

by the Independent Police Conduct Authority (IPCA). The investigation will address a number of outstanding questions, including how many young people were photographed, their ethnicities, the reason for photographing these individuals, and whether the officers involved complied with current Police policy.

9. While Police estimates that the investigation could be completed in a few weeks (e.g. by approximately 1 March 2020), this timing could be subject to change as more information may come to light during the enquiry that requires further investigation.
10. After the investigation, the findings will be reviewed by the IPCA and subsequently made available to the public. For Police to meet its obligations to the IPCA and other parties (such as staff who are being investigated and/or any complainants), Police is unable to comment further on the investigation while it is underway.

### **Police is currently developing an extensive approach to mitigating bias in police practices**

11. The media has reported concerns that the young people were targeted and photographed because of their ethnicity. Police has insufficient information to comment on this, but will consider the accusation as part of the investigation. Police is working hard to reduce the impact of bias on policing practice and any findings or implications from the investigation or the policy review will inform the broader work programme to reduce bias.
12. Police acknowledges that bias is an issue we need to address on an ongoing basis. Police is working towards significantly reducing bias in policing practices through enabling staff to recognise bias, understanding how it influences decisions and behaviours, and the importance of providing the necessary tools to mitigate biased practices.
13. Police will continue to update you on the programme of work underway in respect to bias.

### **Police is reviewing the current policy and practice to ensure that staff are enabled to make good decisions**

14. Police recognises the importance of ensuring that our policing practices are both legally authorised and align with public expectations of the policing service that New Zealanders expect and deserve. We recognise that incidents such as the one described above, have the potential to undermine public trust and confidence in Police. Police also recognises that the vulnerability of children and young persons means they require special protection during any Police investigation.
15. At the same time, Police (National Prevention Centre) is currently undertaking a review of the existing policy and practice of taking photographs and fingerprints of children and young people. Although no fingerprints were taken in the case in the Wairarapa, Police is including the taking of fingerprints in the review for

completeness. The terms of reference for the review are currently being finalised but will broadly cover several aspects, including:

- 15.1. whether current policy is consistent with relevant legislation and the principles and standards outlined in the United Nations Convention on the Rights of Children, New Zealand Bill of Rights Act 1990, Privacy Act 2020 and the Oranga Tamariki Act 1989.
  - 15.2. whether the current policy provides sufficient guidance to staff around what constitutes informed consent. Police recognises the importance of obtaining the consent of a parent and/or guardian of a child or young person, to ensure that rights are well understood.
  - 15.3. whether the current practices and procedures across Districts are consistent with Police's policy for taking photographs and fingerprints from children and young people.
  - 15.4. the way Police uses technology, in particular the use of mobility devices in relation to photographs and fingerprints.
  - 15.5. compliance with policy regarding the retention, storage, and destruction of photographs and fingerprints.
  - 15.6. the standard of guidance and training delivered to frontline staff.
  - 15.7. Identification and alignment of any issues, stemming from the investigation or review that relate to Police's broader work on unconscious bias.
16. The review will help identify current practice in other Districts, and whether this type of incident has occurred elsewhere. All Police District Commanders have also been briefed about the incident and the review, and are aware of the importance of ensuring good practice when photographing children and young people, given their vulnerability.

**Police is meeting with the Independent Police Conduct Authority and the Office of the Privacy Commissioner**

17. Police is meeting with the IPCA and the Office of the Privacy Commissioner to discuss the scope of the review.
18. Police will also consult with the IPCA and the Office of the Privacy Commissioner on the outcomes of the broader policy review. Both have a role in the investigation through their statutory responsibilities.
19. The investigation into the Wairarapa case falls outside the investigative role of the Office of the Children's' Commissioner. However, we will consult the Children's Commissioner in the broader review of the policy and practice nationally.

## Media lines

20. Should your office receive media interest in this issue, Police's Media & Communications team has prepared the following media lines:

- Police has announced that they will be undertaking a review of its practice regarding the recording of photographs of young people as a tool for investigating crime in the community.
- Police recognise that they police with the consent of our communities and it is critical they maintain the public's trust and confidence.
- Police continues its work to understand and significantly reduce bias in policing.
- I expect Police to support staff to comply with all relevant legislation and organisational policies.

## Police will provide you with further advice following the completion of this internal review

21. Police will provide you with an update following the completion of this review. We anticipate that the internal review will be completed by 1 March 2021.

<b>Reviewed by</b>	Jenny Cross, Manager Criminal Justice Policy, Policing and Partnerships	s9(2)(a)
<b>Approved by</b>	Assistant Commissioner: Prevention and Road Policing, Scott Fraser	s9(2)(a)