

MEDIA RELEASE

Operation Painter: findings in privacy investigation

15 March 2018

Privacy Commissioner John Edwards says a Police checkpoint in 2016 unlawfully and unfairly collected personal information, harming some of the people affected.

The breath testing checkpoint was set up near an Exit International meeting in Lower Hutt. Police at the checkpoint collected the names and addresses of people who had attended the meeting. Police later visited some of the meeting attendees.

The Commissioner initiated an investigation after the media reported on the incident in October 2016. The Office of the Privacy Commissioner (OPC) later received complaints from individuals affected by the incident. The Independent Police Conduct Authority (IPCA) investigated after complaints from the public and a self-referral by Police.

OPC investigated the collection of personal information at the checkpoint, while IPCA investigated Police actions and the subsequent use of the information. Each organisation investigated under its own Act.

In June 2017, OPC completed their investigation and advised the parties of its final view. It found the collection of personal information at the checkpoint to be both unlawful and unfair. The way information was collected breached principle 4 of the Privacy Act 1993.

“Police used an unlawful checkpoint to take advantage of the public’s trust in them and collect information from people who were not legally required to provide it,” Mr Edwards said.

“The primary function of Police is to maintain the law and there is an expectation that they will follow the law and their own policies at all times. This is especially the case when they engage with members of the public or use their powers to investigate offences.”

Some complainants said the visits from Police made them feel uncertain about their ability to speak freely and anxious that more visits would follow.

“Police approached them after unlawfully collecting their information, and questioned them about a socially and politically sensitive subject. It is fair to say that the actions by the Police officers caused those complainants harm,” Mr Edwards said.

Mr Edwards acknowledged that Police believed the meeting attendees were at risk, and said that apologies from Police and an undertaking to delete the information collected at the checkpoint were appropriate resolutions to the complaints.

ENDS

For more information or to interview John Edwards, contact Sam Williams on 021 959 050 or at sam.williams@privacy.org.nz