

Access to view taser camera footage of 47 incidents where the taser was discharged

Legislation:	Official Information Act 1982, s9(2)(a) (see appendix for full text)
Requester	TVNZ News – Chris Cooke
Agency:	NZ Police
Request for:	Access to view taser camera footage of 47 incidents where the taser was discharged
Ombudsman:	Dame Beverley Wakem
Reference number(s):	290369
Date:	September 2015

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Summary

This opinion relates to a media request to Police to view the camera footage of all incidents where a person was tasered by a police officer.

Police refused this request under section 9(2)(a) of the Official Information Act (OIA) on the basis that withholding the information was necessary to protect the privacy of individuals featured in the footage.

The requester, Chris Cooke of TVNZ, made this request in July 2010 as part of a series of requests for taser related information. My opinion on this complaint follows two earlier opinions from Ombudsman David McGee regarding complaints received about Police refusals of requests for taser camera footage. It differs from the previous two opinions because this complaint is about refusal of access to view the camera footage rather than refusal of a copy of the footage.

I concluded that, in the absence of consent, the privacy interests of individuals captured by taser camera footage trigger the application of section 9(2)(a) whether or not release of the information would be by way of access to view the footage or provision of a copy.

In his submissions on the public interest, Mr Cooke raised a legitimate question about whether the Police instructions and monitoring processes for taser use are sufficiently robust. I consider that there is a strong public interest in the release of information about the adequacy of Police monitoring processes.

However this is quite a different consideration to granting a journalist access to view taser camera footage as a voluntary arbiter of Police compliance.

I have therefore formed the opinion that Police were justified in refusing Mr Cooke's request to view the taser camera footage under section 9(2)(a) to protect the privacy of the individuals in the footage.

My role

1. As an Ombudsman, I am authorised to investigate and review, on complaint, any decision by which a Minister or agency subject to the OIA refuses to make official information available when requested. My role in undertaking an investigation is to form an independent opinion as to whether the request was properly refused.

Background

2. On 9 July 2010 Chris Cooke, Producer of the Sunday Programme for TVNZ, made several OIA requests to Police for information about taser use. Among those requests, he asked to view footage of all taser incidents where a person had been tasered.

3. By letter dated 26 July 2010 Superintendent Kelvin Powell wrote to Mr Cooke advising him his request to view the footage was refused pursuant to section 9(2)(a).
4. On 28 July 2010 Mr Cooke lodged a complaint about this refusal (as well as a number of other Police refusals to related requests) with this Office. Mr Cooke expressed concern about whether Police were successfully capturing the video of taser incidents and stated:

To check that [Police] are following procedure, I requested that we come and view all the incidents where a person was actually tasered. This is for viewing only. We would not know who the people are in the video. The Police have declined pointing to section 9(2)(a) of the Official Information Act. I ask that the Ombudsman direct the Police to allow us to view the footage as requested.

Previous related complaints

5. Ombudsman David McGee previously investigated and formed opinions on two complaints about Police refusals of requests for taser camera footage.¹
6. One complaint, made by Simon Bradwell for TV One News (our reference W61471) involved a request for a copy of taser camera footage featuring an individual who had not consented to release of the footage. Police initially declined the request under section 6(c) as the individual was facing trial on a number of charges and release of the footage could have prejudiced his right to a fair trial. Dr McGee agreed that Police were correct to refuse Mr Bradwell's request under section 6(c) at the time he made it. Once the proceedings were over, Dr McGee formed the view that Police were still entitled to withhold the footage under section 9(2)(a) in the absence of consent from the tasered individual.
7. The second complaint (our reference 290369) was also a complaint from Mr Cooke, the complainant in the current case, regarding the Police decision to refuse his request for copies of taser camera footage of two specific incidents where the taser was deployed on individuals. Mr Cooke had obtained consent from those individuals, however Police had still refused his request for copies under section 9(2)(a). In that complaint, Dr McGee formed the view that Police were not entitled to refuse Mr Cooke's request under section 9(2)(a) where the subjects of the information had provided fully informed consent for the information to be released to a third party. While Police were initially concerned about whether genuine and informed consent had been obtained, this issue was resolved during the course of Dr McGee's investigation following consultation with the individuals concerned.

¹ Dr McGee's opinions on these complaints can be found on our website at: www.ombudsman.parliament.nz/resources-and-publications/opinions/official-information-opinions

8. Notably, although Police had refused to provide copies of the taser footage to Mr Cooke, Police had offered Mr Cooke the opportunity to view that particular footage despite not being satisfied with the original consent documentation provided by Mr Cooke. Police subsequently changed their position on this, as will be discussed below.

Investigation

9. This investigation was commenced during the term of office of Ombudsman David McGee. Dr McGee provided his provisional opinion on TVNZ's complaint in January 2013. On Dr McGee's retirement from his position as Ombudsman on 31 May 2013, I assumed responsibility for this investigation.
10. Police were notified of Mr Cooke's complaints about the Police responses to his various requests for taser footage and taser-related information in August 2010. The Police refusal of Mr Cooke's request to view footage of all taser incidents where a person was tasered was included as part of that notification letter.
11. Dr McGee's investigation into Mr Cooke's complaints covered a number of matters, and in particular had focussed on the Police refusal of Mr Cooke's request for copies of the taser camera footage for two individuals as referred to above.
12. After Dr McGee's opinion on that matter had been finalised in June 2012, Mr Cooke raised the complaint he had made regarding his request to view footage of all incidents where a person had been tasered, and asked that the Ombudsman form an opinion on that matter also.
13. Mr Cooke confirmed that his request was intended to cover footage of all incidents where the taser was actually discharged as opposed to the taser only being presented or used to laser paint an individual. From figures provided earlier by Police in relation to Mr Cooke's request for statistics, it was calculated that Mr Cooke's request would include up to 47 incidents, as this was the number of discharges that had occurred prior to the date of his request on 9 July 2010 (assuming there was camera footage for all incidents).
14. Dr McGee wrote to Police in August 2012 inviting Police to comment specifically on its refusal of Mr Cooke's request to view the footage for all taser discharges.
15. Dr McGee had previously consulted with the Privacy Commissioner in respect of Mr Cooke's related complaint about the Police refusal of his request for copies of taser footage, and had therefore already obtained the Commissioner's views on the privacy interests of individuals captured by the taser footage.
16. After considering the Police response, and taking into account comments already received from the Privacy Commissioner on Mr Cooke's related complaint, Dr McGee provided Mr Cooke with his provisional opinion on 23 January 2013. Dr McGee's provisional opinion was that Police were justified in refusing Mr Cooke's request under section 9(2)(a) of the OIA.

17. Mr Cooke responded with his comments on Dr McGee's provisional view on 23 February 2013, and with some further comments in December 2014.
18. I have now had the opportunity to review Dr McGee's provisional opinion, Mr Cooke's responses, and all the relevant material supplied during the course of this investigation and related investigations. I therefore have sufficient information to form my opinion on Mr Cooke's complaint.

Comments received during investigation

Police

19. In October 2012, Dr McGee requested specific comments from the Police in relation to Mr Cooke's request to view the footage of all taser discharges (calculated to be approximately 47 incidents).
20. Police were also asked to explain why Mr Cooke had been offered the opportunity to view the two pieces of footage that were at issue in Mr Cooke's request for physical copies of the camera footage but had refused his request to view footage of all 47 incidents where a person had been tasered.
21. The Police responded with reference to previous submissions made by Police on the privacy interests of individuals featured in taser camera footage, and added the following comments on this particular request:

Having reviewed your letter, Police agrees that it was inconsistent to offer Mr Cooke access to view footage of two discharges (where Police was not satisfied that he provided proof of informed consent), but to refuse access to footage of all other discharges. In hindsight, Police now considers that it ought not to have offered Mr Cooke access to view the taser camera footage of [...] until it had confirmed the men had provided informed consent.

Police considers that section 9(2)(a) provides good reason to refuse Mr Cooke's request to view all footage of Taser discharges.....The footage is highly personal, and of individuals at their most vulnerable. Mr Cooke does not have the authority of each of those tasered individuals, and Police does not consider that it should have to seek it for him.

Mr Cooke

22. In February 2013 Mr Cooke provided comments in response to Dr McGee's provisional opinion. Mr Cooke made the following comments:

Me viewing the footage for the purposes outlined above [as a check police procedure was being adhered to], where I do not know the identity of an

individual, is considerably less intrusive upon a person's privacy than release of footage when it may be broadcast.

The provisional view appears to have possibly missed, or possibly failed to take into account fully, the fact that the identity of the person would not be known to me. If there was visual information or audio information that did state a person's name fully I would accept this would fall outside my request if their identity had been suppressed by the court.

However if it is a publicly attainable fact, not suppressed by the court, that a person has been tasered by the police then me seeing the footage is not a breach of their privacy. When we hear a particular person has been tasered it evokes a particular image. We all know what a person being tasered looks like. The video image of it is not revealing anything particularly unique, different or intimately personal and private. This is no different than police footage of people being arrested using other methods of restraint such as pepper spray, baton or physical restraint. Footage that is screened on our TVs every week on NZ Police sanctioned reality programmes. It is accepted widely by the public that all these aspects of policing are open for public viewing and scrutiny. The physical action of pepper spraying and the reaction to it is similar in nature to that of the taser. This new method of restraint, the taser, should not be hidden from scrutiny. Given it is a new restraint method and the procedure around it new to officers, this is more a reason that it should be fully open to scrutiny.

23. Mr Cooke suggested that any privacy concerns could also be addressed by a digital blurring of people's faces. He acknowledged this might take some time and effort but considered that this should have been anticipated by the Police at the time they decided to collect this information.
24. Mr Cooke also submitted that there is a public interest in allowing him access to view taser camera footage as a check that Police were following appropriate procedures:

The actions of our public officials should be fully open to scrutiny. I believe that it is a reasonable position for you to take that people who have been tasered, where the fact they have been tasered is not an already suppressed fact, would not be opposed to me to viewing the footage to check police procedure has been followed. Such a check is in their interests and in the interests of the wider public who should be confident the police are operating correctly and being scrutinised rather than their conduct hidden from scrutiny. In summary I am arguing that there is a very strong public interest consideration that outweighs the privacy argument raised by the police.

You state in your provisional view that essentially my need to carry out such scrutiny is not required as the police already monitor its use.

.....

This might be considered scrutiny if the information was actually collated and available. It is not.

After I received your provisional view I sought to check with the NZ Police if the reports you speak of exist and that they are available for scrutiny on behalf of the public. You would expect that for the limited number of times that the taser has been fired that reports on the deployment in each case, including any concerns raised, would sit in a folder on the desk of the senior officer monitoring this new weapon nationally. You will see from the police's reply attached that this is not the case, where concerns raised are not recorded and retained in any systemised way. The information is simply not held.

Given this you are not able to conclude as you do in your provisional view that you are confident of the Police's measures in place to provide accountability on behalf of the public that Police are complying with taser operating procedures. The police's reporting measures are woeful and do not adequately address the public interest in ensuring procedure is being followed in the use of the taser."

25. The Police letter referred to by Mr Cooke was the Police response to a request Mr Cooke had made in January 2013 under the OIA for *'details of how many times Tactical Options Reports submitted following the use of TASER have resulted in concerns being raised with the officer over use of the TASER.'*
26. Police responded to Mr Cooke's request in a letter dated 21 February 2013 as follows:

Supervisor comments contained in Tactical Options Reports are located in a specific narrative section of the form. TASER has been deployed (in all models) in more than 1500 Tactical Options Reporting events since its national roll out in March 2010. Responding to your question would require NZ Police to search through each individual TASER-related Tactical Options Report to identify any relevant information. As such, your request is refused pursuant to section 18(f) of the Official Information Act 1982: 'that the information requested cannot be made available without substantial collation or research'.

Furthermore, any concerns raised directly with district staff (e.g. by supervisors as a result of information contained within individual Tactical Options Reports, or actions taken as a result of any such concerns is not collected in any systemised way and is therefore refused pursuant to section 18(g) of the Official Information Act 1982 'that the information requested is not held'.

27. In December 2014, Mr Cooke sent some further information that he requested I consider before forming my opinion. He provided me with information relating to the Police use of a taser against Troy Reuben in 2011 including a copy of the report prepared by the Independent Police Conduct Authority (IPCA), and referred me to another IPCA report

about the Police use of a taser in relation to Mark Smillie.² Mr Cooke provided the following further comments:

It is in the public interest that I should be allowed to view footage taken on police taser to check that it is being used in line with police procedure and New Zealand law. The police can not be relied on to always self critique. My role as a journalist is to scrutinise on behalf of the public.

I point to two cases where the police did not self critique and in fact gave incorrect assessment of what happened in regards to the use of the taser which was subsequently found to be contrary to law. ...

...

These cases highlight how the taser is being used illegally. Not all cases will be taken to the IPCA as victims will not know the correct procedures around the firing of the taser. A victim will not necessarily recognise a breach. It is my role on behalf of the public to check and I should be allowed to view the taser footage.

Analysis and findings

Privacy of individuals featured in the footage

28. Section 9(2)(a) provides good reason for refusing a request for information, subject to the countervailing public interest in disclosure, if the withholding of the information is necessary to:

..protect the privacy of natural persons, including that of deceased natural persons;

Identifiable individual

29. The starting point for determining whether or not release of the information could have privacy implications is whether the information involves an 'identifiable' individual.
30. Unlike written documents, a video recording or photograph of an individual is a type of information that by its very nature (assuming sufficient quality of the image) enables the individual to be identified by people who already know them or by people they may meet in the future.

² These reports can be found at www.ipca.govt.nz/Site/media/2014/2014-June-12-Use-of-force-against-Mark-Smillie.aspx and <http://www.ipca.govt.nz/Site/media/2014/2014-Oct-09-Arrest-and-Prosecution-of-Troy-Reuben.aspx>

31. With written documents, privacy concerns may be able to be addressed by the removal of names and other information that might allow identification. In photographs and video recordings, the information necessary for identification of an individual is complete. Attaching a name to the individual depicted is not necessary for an intrusion on privacy to be possible. If you were to view a photo or video of your local shop keeper for example, this could potentially invade that individual's privacy whether you knew their name or not, depending on what the images depicted.
32. The UK Information Commissioner's guidance on '*Determining what is personal data*' provides a helpful description of what is required for information to be "identifiable":³

An individual is 'identified' if you have distinguished that individual from other members of a group. In most cases an individual's name together with some other information will be sufficient to identify them. ...

Simply because you do not know the name of an individual does not mean you cannot identify that individual. Many of us do not know the names of all our neighbours, but we are still able to identify them.

There will be circumstances where the data you hold enables you to identify an individual whose name you do not know and you may never intend to discover.

33. Any activity that is depicted in a video recording, or any further information provided about a person depicted in a photograph, will be about an identifiable individual assuming sufficient quality of the images. I do not accept Mr Cooke's submission that his viewing of footage recorded by the Police could not raise privacy concerns because that person would not be known to him. He does not know if the person would be known to him, nor could he discount the possibility that he might meet that person in the future.

Nature of the information

34. Providing access to videos or photos of identifiable individuals will not always raise privacy concerns sufficient to warrant the protection of section 9(2)(a). It will depend on the context.
35. When information associated with an identifiable individual is highly personal, potentially embarrassing, or otherwise sensitive, then the individual will have a high privacy interest in the information. I consider that taser camera footage will usually fall within this category.
36. Mr Cooke submits that there is nothing '*particularly unique*' or '*intimately personal and private*' about a person being tasered and that '*we all know what a person being tasered*

³ The full guidance document is available at <https://ico.org.uk/media/fororganisations/documents/1554/determining-what-is-personal-data.pdf>

looks like'. He suggests that there is little difference from other images of police restraint and that these types of images are already in the public arena via Police sanctioned reality programmes.

37. In Dr McGee's investigation of Mr Cooke's earlier complaint about taser camera footage, the Privacy Commissioner described the privacy interests at stake as follows:

I consider that in general terms the privacy of individuals who are being restrained by the police in whatever manner, are situations containing significant privacy interests. The indignity of being restrained and the subsequent loss of freedom are potentially highly embarrassing and I believe most people would consider such events to have a high privacy value.

38. I agree with the Privacy Commissioner's view. Information that shows a person's interaction with Police where restraint is involved, suggests that the subject of the restraint has acted in a manner to require restraint, or is being arrested, or has conducted themselves in a way that has brought them negative Police attention. For many, that alone would be a fact that the subject would consider private.
39. Furthermore, in many cases, and especially with the use of a taser, the nature of the Police restraint may render a person incapacitated, with little or no control over their body or bodily functions and possibly in pain. I think that any reasonable person would regard third party access to images of themselves in such a vulnerable and distressed state to be a violation of their privacy in the absence of specific consent.
40. The fact that similar footage makes its way to our television screens in reality TV shows does not, in my view, change the fact that this type of information is highly personal. Where an individual has specifically provided informed consent to such a publication then they have freely waived their privacy interest in the publication of such images.
41. The media, in its news gathering activities, is, in any case, exempt from the application of the Privacy Act, and reality TV shows are invariably found to be covered by this exemption. If the media filmed a person being tasered and then broadcast those images in a news programme, the only recourse an individual has is to take a complaint to the Broadcasting Standards Authority or court action alleging a breach of privacy at common law.⁴ The breach of privacy tests in those forums have developed along different lines, and do not necessarily correlate with the assessment of privacy interests in respect of section 9(2)(a) of the OIA.
42. The OIA deals with access to information collected and retained by state sector agencies. It is one thing for the media to film and disseminate images for news purposes, it is quite another for a state sector agency to grant the media (or any third party) access to information it has collected about an individual for a different purpose.

⁴ Natalya King "Privacy and Reality Television: Issues for Producers and Involuntary Participants" in Stephen Penk and Rosemary Tobin (eds) *Privacy Law in New Zealand* (Thomson Reuters, Wellington, 2010) 297

Viewing versus release of a copy

43. In his provisional opinion Dr McGee stated:

It seems to me that the privacy interests of individuals featured in the footage are the same whether the footage is to be viewed by, or copied to, a third party. Obviously if a copy of the footage were to be released, the privacy implications of what could then happen to the information are considerable, however I do not consider this means that allowing a third party to view the footage is any less of an intrusion on an individual's privacy.

44. Mr Cooke argues that merely viewing the footage is 'considerably less intrusive' than releasing a copy which may then be broadcast.

45. I agree that the consequences of releasing a copy as opposed to providing access to a controlled viewing would be quite different in terms of the harm that could be caused to the subject of the information. However I consider that allowing a single third party to view the footage would be a significant infringement of the subject's privacy without that person's consent.

46. The fact that it is only one person viewing it rather than hundreds or thousands does not change the nature of the information and its linkage to an identifiable individual that gives rise to the privacy interest.

47. Looking at it from the perspective of the holder of the information, in this case the Police, I do not consider that showing a third party (journalist or otherwise) potentially embarrassing footage of an individual without that person's consent is consistent with an obligation to protect the privacy of that individual.

48. In the absence of consent, I am satisfied that the privacy interests of individuals captured by taser camera footage require the protection of section 9(2)(a) whether or not release of the information would be by way of access to view the footage or provision of a copy.

Mitigation by pixelation

49. In his response to Dr McGee's provisional opinion, Mr Cooke suggested that Police could use digital blurring in order to protect the privacy of individuals in the footage that he wished to view.

50. I understand from the information obtained from Police during Dr McGee's investigation, that pixelation or digital blurring would have required significant time and resource based on technology available for Police use at the time. In short, it would not have been administratively feasible for Police to take the time to pixelate the relevant images for all 47 videos captured by the request.

Countervailing Public Interest

51. Where a withholding ground under section 9 applies, this is not an end to the matter. Pursuant to section 9(1), I must go on to consider whether the reason for withholding the information is *'outweighed by other considerations which render it desirable, in the public interest, to make that information available'*.
52. Section 4(c) of the OIA recognises that the purpose of the legislation includes protecting official information to the extent consistent with *'the preservation of personal privacy'*. However the protection of personal privacy under section 9(2)(a) is subject to a countervailing public interest test.
53. Privacy is an important interest requiring protection but privacy cannot be a shield against legitimate scrutiny. I have therefore carefully considered Mr Cooke's arguments as to why granting him access to taser camera footage would promote legitimate scrutiny of Police actions and thereby promote Police accountability.
54. In reference to a particular incident, there could be a public interest consideration that might outweigh the strong privacy interests of individuals captured on film by a taser camera.
55. Mr Cooke proposes to view all incidents where a person was tasered in order to check whether Police are complying with procedures. Mr Cooke states that it is the public interest that he *'be allowed to view footage taken on police taser to check that it is being used in line with police procedure and New Zealand law.'* Mr Cooke submits that checking Police compliance with procedures is his "role on behalf of the public".
56. I acknowledge that the media plays an important watchdog role in holding government to account for the powers that it has. However I do not accept that this means that an individual journalist, or journalists as a class, should have open access to taser camera footage of individuals in order to monitor Police compliance.
57. There is a formal monitoring framework within Police for the use of force. For tasers in particular, as well as the camera recording footage of the incident, the taser records data such as how many times it has been discharged. This data is downloaded along with the camera footage for review by various officers in each District who have the responsibility of overseeing the taser environment.
58. Individual officers are required to file tactical options reports on each incident where a tactical option was used, including the taser, and those reports are reviewed by an officer's supervisor who has to sign off on the report.
59. Other accountability mechanisms such as Police Professional Standards and IPCA exist to scrutinise individual incidents where concerns have been raised about an officer's use of the taser. IPCA also must investigate every incident in which a member of Police causes

or appears have caused death or serious bodily harm, and the Police have a statutory duty to report such incidents to IPCA.⁵

60. Mr Cooke references the IPCA report on the arrest and prosecution of Troy Reuben, where a Police officer's taser use was found to be excessive and contrary to law, and the IPCA report on the tasing of Mark Smillie where the use of the taser was considered disproportionate and unjustified. Mr Cooke considers these incidents, and the subsequent findings about the use of the taser, demonstrate that the internal Police mechanisms for monitoring taser use are inadequate.
61. I agree that information came to light in both incidents which indicated that Police internal processes had not identified the same problems with their officers' use of tasers that the IPCA investigations did. This raises a legitimate question about whether the Police instructions and monitoring processes for taser use are sufficiently robust. It seems to me therefore that there is a strong public interest in the release of information about the adequacy of Police monitoring processes. This is quite a different consideration to granting a journalist access to view taser camera footage as a voluntary arbiter of Police compliance.
62. In saying this, I do not ignore Mr Cooke's point that Police were not able to provide him with statistics in relation to taser deployments where concerns had been raised about an officer's use of the taser. The lack of information on this issue is troubling. The transparency of accountability measures is, in my opinion, a crucial component for maintaining the public's trust and confidence in Police.
63. Given the recent Police decision to arm every Police officer with a taser, it seems to me that the public interest concerns identified by Mr Cooke could be addressed under the OIA by Police making available, either on request or proactively, information which describes:
 - a. the internal guidelines and instructions given to staff regarding the operation of tasers;
 - b. the mechanisms and practices Police use to monitor the use of tasers by individual officers; and
 - c. the processes by which the Police identify and address any failures in practice.
64. I note that Police are now proactively releasing some information on taser use by way of publishing biannual reports on the use of tactical options, including tasers, on their website⁶. These reports, produced by the Response Operations: Research and Evaluation (RORE) team, provide summary statistics with some breakdown of reasons for use of that tactical option. While the information provided is at a summary level, that information

⁵ Sections 12 and 13, Independent Police Conduct Authority Act 1988

⁶ These reports can be found at www.police.govt.nz/about-us/publication/tactical-options-research-reports

can be helpful in assisting a requester to focus an OIA request in a way that may allow for Police to be able to respond more effectively.

Chief Ombudsman's opinion

65. For the reasons set out above, I have formed the opinion that Police were entitled to rely on section 9(2)(a) to refuse Mr Cooke's request to view all taser camera footage of incidents where the taser was discharged.

Post Script

Following receipt of my opinion on this complaint, Police provided me with the following update on the current internal monitoring and accountability mechanisms for taser use within Police:

Police accepts your opinion and thanks you for your helpful analysis, which will benefit Police in managing digital information and dealing with requests.

Police would like to provide an update regarding internal monitoring and accountability mechanisms within Police

In relation to Taser use against Troy Reuben and Mark Smillie, the internal Police mechanism for Taser accountability, the Taser Assurance Forum examined the cases, recorded concerns relating to the application of Taser policy, practice and procedure and returned them to the relevant Police districts to investigate.

There has been a recent policy and process change so that there is now a national Professional Conduct representative on the Taser Assurance Forum to ensure any recommendation made to district is appropriately followed up. This means that no district resolution of a matter investigated by the Taser Assurance Forum can occur without Police Professional Conduct investigation and oversight. Police expects this improvement addresses some of the concerns expressed ... regarding the adequacy of Police monitoring processes and accountability measures.

Dame Beverley Wakem DNZM, CBE
Chief Ombudsman

Appendix : Relevant statutory provisions

Official Information Act 1982

4. Purposes

The purposes of this Act are, consistently with the principle of the Executive Government's responsibility to Parliament,—

- (a) to increase progressively the availability of official information to the people of New Zealand in order—
 - (i) to enable their more effective participation in the making and administration of laws and policies; and
 - (ii) to promote the accountability of Ministers of the Crown and officials,—and thereby to enhance respect for the law and to promote the good government of New Zealand:
- (b) to provide for proper access by each person to official information relating to that person:
- (c) to protect official information to the extent consistent with the public interest and the preservation of personal privacy.

5. Principle of availability

The question whether any official information is to be made available, where that question arises under this Act, shall be determined, except where this Act otherwise expressly requires, in accordance with the purposes of this Act and the principle that the information shall be made available unless there is good reason for withholding it.

9. Other reasons for withholding official information

- (1) Where this section applies, good reason for withholding official information exists, for the purpose of section 5, unless, in the circumstances of the particular case, the withholding of that information is outweighed by other considerations which render it desirable, in the public interest, to make that information available.
- (2) Subject to sections 6, 7, 10, and 18, this section applies if, and only if, the withholding of the information is necessary to—
 - (a) protect the privacy of natural persons, including that of deceased natural persons;