



Request for information about a victim of crime

Legislation	Official Information Act 1982, s 9(2)(a)
Agency	Crown Health Enterprise
Ombudsman	Sir Brian Elwood
Case number(s)	A5414
Date	June 1996

Request for information about victim of crime—information needed for petition to Governor-General—balance to be struck between privacy interest and public interest in justice

Counsel acting for a person convicted of a crime requested information from a Crown Health Enterprise¹ (CHE) to enable him to prepare a petition to the Governor-General under section 406 of the Crimes Act because he believed his client had been convicted unjustly. The information at issue was about a victim who had given evidence at the offender's trial. The evidence was that she had been assaulted by the offender and had been treated for particular injuries between certain dates at the local hospital. The request was for hospital records showing a person being treated for such injuries during the period in question. However, the request was declined in terms of section 9(2)(a) of the OIA.

Strong privacy interests attach to personal health information. Accordingly, when reviewing a decision to refuse a request for information of this nature made by a third party, there would have to be very strong public interest considerations favouring disclosure in terms of section 9(1) of the OIA in order to outweigh the intrinsically high privacy interest.

In this case, the review disclosed that there was, in fact, no record at the hospital of either the victim or any other person having been treated at the relevant time for the type of injury said to have been inflicted. Furthermore, there was no record of the victim having been treated for any other condition. In light of this information, and of the fact that contradictory evidence had been given at the trial, the view was formed that, in the unusual circumstances of this case, the interests of justice outweighed the privacy interest of the victim. After consultation with the Privacy Commissioner, who accepted the special circumstances of the case, it was put to the

¹ Note Crown Health Enterprises were predecessors to the current District Health Boards.

CHE that it should release the information to the barrister. This would enable the Governor-General to be advised of the relevant facts.

Comment

The information was made available to counsel. The Governor-General referred the petition to the Court of Appeal which quashed the relevant convictions. In doing so, the Court placed considerable weight on the evidence that had been presented regarding the lack of a hospital visit.

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