

## Request for information about an inmate's whereabouts and rehabilitation programmes

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| <b>Legislation</b>    | Official Information Act 1982, s 9(2)(a) |
| <b>Agency</b>         | Department of Corrections                |
| <b>Ombudsman</b>      | Sir Brian Elwood                         |
| <b>Case number(s)</b> | W47608                                   |
| <b>Date</b>           | August 2002                              |

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*Written submission to Parole Board on potential release of an offender—submitter advised that inmate entitled to have access to her submission—submitter sought information about the inmate's whereabouts and rehabilitation programmes—s 9(2)(a) applied—Department had already provided the requester with general information about types of courses and rehabilitation programmes available to inmates which met the public interest—In future Parole Board should advise persons making submissions that they could request that personal details be withheld from offender to protect their privacy*

A woman had written to the Parole Board expressing her view on the potential release of a prison inmate. She was advised that, if she wished her submission to be considered by the Board, the prison inmate was entitled to have access to any submission she made to the Board, including details about her. In response, she wrote to the Department of Corrections:

*[Given] offenders have access to material submitted by the public...the public should have access to material in [the offender's] prison records. Could you please advise me of [the offender's] present whereabouts and forward copies of the rehabilitation programs completed during imprisonment, so that a fully informed submission can be presented.*

The Department of Corrections refused to release this information relying upon section 9(2)(a) of the OIA.

The Chief Ombudsman reviewed the information at issue. Information about the offender's whereabouts and the specific rehabilitation courses he had attended was clearly personal

information about the offender, which had a privacy interest attached to it. The Chief Ombudsman then consulted the Privacy Commissioner and he agreed there was a privacy interest in this information which is protected by section 9(2)(a). It could be directly connected to the offender and, if it were made public, it was likely to lead to undue contact or harassment by members of the public who were opposed to the offender's actions and future release.

Having established that section 9(2)(a) applied to the information at issue, the Chief Ombudsman then considered whether any countervailing public interest considerations existed in favour of releasing the information which outweighed the need to withhold. While the Chief Ombudsman considered it necessary to ensure that the Department of Corrections was not prevented in any way from managing inmates effectively, he was of the view that there was a strong public interest in disclosure of general information about the types of courses and rehabilitation programmes available to prison inmates. However, the Department had already provided the requester with this general information and the Chief Ombudsman was satisfied that this information was sufficient to meet the public interest.

The Chief Ombudsman did not consider that the public interest extended to requiring the Department to release specific details of the courses the offender had taken during his imprisonment, or the offender's current location.

### **Comment**

When forming his view, the Chief Ombudsman noted the complainant's concern that members of the public are not entitled to information about the convicted offender and are granted no privacy when making submissions, yet the offender is accorded full privacy and entitled to view all information provided by members of the public to the Department and the Parole Board.

The Chief Ombudsman commented that a person making a submission to the Parole Board should be advised they could request that personal details, such as their identity, be withheld from the offender to protect their privacy. He suggested that those wishing to make a written submission to the Parole Board should be advised of this, and that it should be incorporated into the relevant procedures manual.

Further, the Chief Ombudsman noted that victims and, in certain circumstances, close family members, are accorded special rights and protection at Parole Board hearings over and above those accorded to members of the general public who were unconnected with a particular case. Specific provision was made for victims to be heard at hearings under section 106A of the (now repealed) Criminal Justice Act 1985.

*This case note is published under the authority of the [Ombudsmen Rules 1989](#). It sets out an Ombudsman's view on the facts of a particular case. It should not be taken as establishing any legal precedent that would bind an Ombudsman in future.*