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| Request for report on de-merging traffic enforcement function from Police |
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| Legislation Official Information Act 1982, s 18(d)  Agency Minister of State Services  Ombudsman John Belgrave  Case number(s) 176212  Date August 2007 |

*Request for copy of report on de-merging traffic enforcement function from Police—report was subject of draft Cabinet paper currently under consultation with coalition party—s 18(d) incorrectly relied upon*

The State Services Minister refused a request for a copy of a report on de-merging the traffic enforcement function from the New Zealand Police because it would soon be publicly available. The requester complained to the Ombudsman.

The Chief Ombudsman made informal enquiries with the Minister’s office, and learned that the report was the subject of a draft Cabinet paper currently under consultation with a coalition party (New Zealand First), after which it would be submitted to Cabinet.

The Chief Ombudsman wrote to the Minister, explaining how section 18(d) applied, and observing that in this case ‘it would appear that there is no certainty about when the information will become publicly available’. He sought a copy of the report and an explanation of the Minister’s decision to refuse the request.

In reply, the Minister advised that the report was now able to be released. She explained that the report was part of the Confidence and Supply Agreement between Labour and New Zealand First, and because of this special relationship she was required to consult New Zealand First on its recommendations. At the time of the request, she was unable to provide any estimate as to when this consultation would be complete, or when the Cabinet paper would go to Cabinet for approval.

The complaint was resolved by release of the report, but the Chief Ombudsman wrote to the Minister noting that her concern about the release of this document related more to section 9(2)(f)(iv) of the OIA than it did to section 18(d). That section can provide temporary protection of confidential advice to Government if release would prejudice the ability of Coalition partners and support parties to conduct negotiations (see our guide [*Confidential advice to Government*](http://www.ombudsman.parliament.nz/resources-and-publications/documents/confidential-advice-to-government)).

This case illustrates that section 18(d) cannot be relied upon where there is no certainty as to when the information will be released, and also that substantive reasons for withholding official information should be considered where appropriate.

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