

## Request for location of sex offenders

<b>Legislation</b>	Official Information Act 1982, s 9(2)(a)
<b>Agency</b>	Department of Corrections
<b>Ombudsman</b>	Dame Beverley A Wakem
<b>Case number(s)</b>	348307
<b>Date</b>	3 May 2014

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*Section 9(2)(a) OIA did not apply to number of sex offenders released into cities because this would not enable individuals to be identified—s 9(2)(a) applied to number of sex offenders released into smaller towns because there was a risk that they could be identified and targeted—public interest in appropriate management of high risk offenders met by releasing this information on a Community Corrections District basis*

### Background

A journalist requested ‘a breakdown of which towns and cities convicted sexual offenders, including paedophiles, are living in New Zealand following their release from prison’. The Department of Corrections refused this request to protect the privacy of the offenders (section 9(2)(a) of the Official Information Act (OIA)). However, the Department did provide a table detailing the breakdown of the number of released sexual offenders living in four regional areas; Northern Region, Central Region, Lower North Region, and Southern Region. The journalist complained to the Ombudsman that the Department ought to have provided a better breakdown in the public interest.

### Investigation

The Chief Ombudsman reviewed the information at issue and consulted the Privacy Commissioner before forming her opinion.

## Privacy

Section 9(2)(a) applies where withholding is necessary to protect the privacy of natural persons.

The Chief Ombudsman accepted that an offender who is released into the community has a legitimate interest in protection of their privacy and preservation of their safety. This interest could be undermined if information was released that identified the offender, and the community to which the offender had been released. However, the strength of the offender's privacy interest depended on the likelihood of them being identified as a result of the information released. It was not necessary to withhold information that would not identify a particular person.

The Chief Ombudsman did not accept that section 9(2)(a) protected the number of sex offenders released into cities with larger populations, as this would not be likely to identify those offenders.

However, she noted that offenders released into smaller communities may have a stronger privacy interest, as the possibility of their identity becoming known is correspondingly higher. There was a risk that these individuals could be targeted. The Chief Ombudsman accepted that section 9(2)(a) protected the number of sex offenders released into smaller towns.

## Public interest

Section 9(2)(a) is subject to a public interest test. This means the need to withhold must be balanced against the countervailing public interest in release. If the countervailing public interest weighs more heavily, the information must be released. If not, it can be withheld.

The Chief Ombudsman identified *'a public interest in society being aware that sex offenders are living within the community in general'* and in *'knowing that the Department knows where such offenders are located, and that it is managing those offenders appropriately to ensure public safety'*. The Privacy Commissioner also identified *'a public interest in communities being able to choose to implement their own risk management plans to protect vulnerable groups whom they feel could be at risk should the released offender re-offend'*.

The Chief Ombudsman concluded that the competing interests could be met by disclosing information in summary form.

## Outcome

The Chief Ombudsman recommended that the Department disclose the numbers of sex offenders released into cities (as defined by Statistics New Zealand), with the remaining information disclosed on a Community Corrections District basis. This would protect the interests of those offenders released into smaller towns and communities, while satisfying the public interest in such information.

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