

Request for statistics on allegations of assault by Corrections staff

Legislation	Official Information Act 1982, ss 18(f), 18(g), 9(2)(a)
Agency	Department of Corrections
Ombudsman	Peter Boshier
Case number(s)	441597, 442496
Date	12 January 2018

Section 18(g) OIA did not apply—requirements of Operations Manual meant source information to answer request should be held—manual compilation is not creation—s 18(f) did not apply—collation or research not substantial—unreasonable to rely on s 18(f) when the fundamental difficulty in providing the information was down to the Department’s own administrative lapses—s 9(2)(a) did not apply—information was not personal information about an identifiable individual

Background

A requester sought statistics on allegations of assault by Corrections staff. The Department of Corrections responded that this information was not centrally held, but stored on individual files, and did not exist in a form that could be readily supplied. The request was refused under sections 9(2)(a) (privacy), 18(g) (information not held) and 18(f) (substantial collation or research) of the Official Information Act (OIA). The requester complained to the Ombudsman.

Investigation

The Chief Ombudsman considered the administrative difficulty in providing the information at issue, and whether there was good reason to withhold it under section 9(2)(a) of the OIA, in order to protect the privacy of natural persons.

Administrative difficulty

The Chief Ombudsman noted that under the Prison Operations Manual all allegations of staff assault are required to be notified, using IR.07.Form.01, to the Corrections Services Helpdesk, which in turn notifies all relevant persons, including the Inspector of Corrections. Therefore, it seemed that the source information to answer the request should be held by the Department, albeit not in a centralised location. What was required was essentially retrieval of existing data, not creation of new data.

The Prison Operations Manual also requires completed investigations of alleged staff assaults to be forwarded to the National Commissioner Corrections Services, *‘in order that the statistical record of the allegation may be completed’*. However, the Department advised this was not happening in practice, as the National Commissioner was notified only when an allegation was sustained.

The Chief Ombudsman stated that, quite apart from the Department’s own reporting requirements, he would expect the Department to keep records of alleged staff assaults in compliance with its obligations under section 17 of the Public Records Act 2005. Had it done so, the requested statistics would be generally available.

While the difficulty in extracting or compiling the information might be considered under section 18(f) of the OIA (substantial collation or research), the Chief Ombudsman did not accept that this section applied. It would not be too great a task to compile the relevant incident reports and, in any event, it would be unreasonable to rely on section 18(f) when the fundamental difficulty in providing the information was down to the Department’s own administrative lapses.

Privacy

Section 9(2)(a) of the OIA provides good reason for withholding official information (subject to a public interest test), where it is necessary to protect the privacy of natural persons.

The Chief Ombudsman did not think this section could apply because the information at issue was not personal information about an identifiable individual. It was statistical information about complaints. The requests were essentially for the numbers, which should be able to be provided without identifying any individual.

Outcome

After considering the Chief Ombudsman’s comments, the Department agreed to collate and release the information to the requester, and to change its practices so that it was recorded systematically.

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