

## Request for still photograph from covert surveillance camera

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|-----------------------|------------------------------------------|
| <b>Legislation</b>    | Official Information Act 1982, s 9(2)(a) |
| <b>Agency</b>         | New Zealand Police                       |
| <b>Ombudsman</b>      | Anand Satyanand                          |
| <b>Case number(s)</b> | W42789                                   |
| <b>Date</b>           | November 1999                            |

*Request for still photograph from covert video surveillance camera—person featured in videotape convicted of offence—privacy interest not outweighed by any countervailing public interest favouring disclosure*

A newspaper requested the Police to make available a still photograph of an individual taken from a covert surveillance video depicting her committing an offence of theft in private premises. The person was subsequently charged and pleaded guilty. The offender declined consent for the release of the photograph, and the Police refused the request in reliance upon section 9(2)(a) of the OIA.

The individual had been videotaped surreptitiously by means of a secret surveillance camera installed in a private home where the individual was employed. This resulted in the collection of personal information about that individual. The disclosure of information collected by these secret means for purposes unrelated to the detection and prosecution of crime would have adversely affected the individual's privacy.

After considering all the circumstances, and following consultation with the Privacy Commissioner, the view was formed that section 9(2)(a) applied to the whole of the videotape and to any still photographs derived from that tape.

It was then necessary in terms of section 9(1) of the OIA to consider whether there were any public interest considerations which outweighed the established privacy interest. Criminal proceedings occasion much media attention, but matters which may be interesting to the public are not necessarily matters which it may be in the public interest to disclose. In this case, any public interest considerations in the publication of the circumstances surrounding the conviction of the individual in question had been sufficiently met by the criminal proceedings

which had been held in open court. In the circumstances, there was no overriding public interest in making the information available in terms of section 9(1).

*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.*