

9 August 2019

Ross Francis
By Email: fyi-request-10739-33e94392@requests.fyi.org.nz

Dear Mr Francis

Official Information Request dated 14 July 2019

I refer to your request for information to the Ministry of Justice (**Ministry**) under the Official Information Act 1982 (**Act**) on 14 July 2019. Your request was as follows:

On 24 June 2019, I received from Jeff Orr three copies of what is essentially the same letter - "No secret report into Ellis case". Were each of these letters, attributed to then Justice Minister Phil Goff, written by Justice Ministry officials? If so, which official(s) wrote each of the letters? Please provide me with all records about the writing of "No secret report into Ellis case" including communication between the then Minister and officials.

When was a copy of Sir Thomas Thorp's report into the Peter Ellis case provided to journalist David McLoughlin, and was McLoughlin the first journalist supplied with a copy of the report? Please provide me with a copy of David McLoughlin's request for a copy of the report, and all communication about his request.

On 30 April 2018, the Ministry's Jacqueline Shannon provided me with information about child sexual abuse statistics for 1989 and 1995. Ms Shannon's list of offence categories showed that charges were laid in respect of 25 categories in 1989, and that charges were laid in respect of 72 categories in 1995. Did the number of offence categories increase between 1989 and 1995? Would all alleged offenders – charged in 1995 – have been captured by the offence categories that existed in 1989? In other words, in respect of alleged offenders who were charged 1995, would any have been unable to be charged in 1989 (assuming they committed the same offences in 1989 as they did in 1995) due to the fewer offence categories in 1989?

We have divided your request into several parts, set out below:

1. *On 24 June 2019, I received from Jeff Orr three copies of what is essentially the same letter - "No secret report into Ellis case". Were each of these letters, attributed to then Justice Minister Phil Goff, written by Justice Ministry officials? If so, which official(s) wrote each of the letters? Please provide me with all records about the writing of "No secret report into Ellis case" including communication between the then Minister and officials.*

The documents you are referring to, as we explained when providing them to you, are not letters but drafts of the Minister of Justice's press release dated 16 March 2001 which you requested in a previous OIA request. Our system lists Michael Petherick as the author of the document.

There are no other records held in relation to this press release.

2. *When was a copy of Sir Thomas Thorp's report into the Peter Ellis case provided to journalist David McLoughlin, and was McLoughlin the first journalist supplied with a copy of the report? Please provide me with a copy of David McLoughlin's request for a copy of the report, and all communication about his request.*

We do not hold any records regarding this journalist requesting Sir Thomas Thorp's report.

3. *On 30 April 2018, the Ministry's Jacqueline Shannon provided me with information about child sexual abuse statistics for 1989 and 1995. Ms Shannon's list of offence categories showed that charges were laid in respect of 25 categories in 1989, and that charges were laid in respect of 72 categories in 1995. Did the number of offence categories increase between 1989 and 1995? Would all alleged offenders – charged in 1995 – have been captured by the offence categories that existed in 1989? In other words, in respect of alleged offenders who were charged 1995, would any have been unable to be charged in 1989 (assuming they committed the same offences in 1989 as they did in 1995) due to the fewer offence categories in 1989?*

To clarify, the two tables provided in the Ministry's response of 30 April 2018 listed the categories for sexual offences (based on police codes) as recorded in the Ministry's system for those years. These categories do not necessarily correspond one-to-one with individual offences in the law: an offence may be divided into multiple relevant categories. Neither will all categories necessarily appear in a given year.

Between 1989 and 1995 the list of offence codes was updated multiple times, primarily splitting up offence codes to be more specific and use more precise language or match any changes in legislative wording. This resulted in a significant increase in the number of different categories available for the same types of offending. The offence categories are recorded for statistical purposes and would not have prevented the charging of persons who committed the same offence in either year.

If you wished to identify changes in criminal legislation between 1989 and 1995, the relevant amending legislation will be publicly available and can be found online (at www.legislation.govt.nz or www.nzlii.org) or potentially in a public library.

You have the right under section 28(3) of the Act to complain to the Ombudsman regarding this response.

Yours sincerely



Jeff Orr

Chief Legal Counsel