



14 July 2020

requests@fyi..org.nz

Dear Che

Request for Information (IR-01-20-17867)

I write in response to your email dated 27 June 2020 in which you submitted a series of questions to New Zealand Police, as follows:

To: the New Zealand Police (NZP); NZP Agents,

Cite: Section 7(1) of the Policing Act 2008: There continues to be an instrument of the Crown known as the New Zealand Police;

You are required to provide your service in answer to the following:

- 1) Please confirm whether or not the interpretation for "the Crown" mentioned in the above section of the Policing Act is in reference to Her Majesty Queen Elizabeth the Second;*
- 2) If "the Crown" in the Policing Act is not in reference to Her Majesty Queen Elizabeth the Second, please provide the legal interpretation for "the Crown" as it is interpreted specifically in that Act;*
- 3) Please confirm whether or not constables who swear an oath are bound to uphold the laws of Her Majesty Queen Elizabeth the Second;*
- 4) Please confirm whether or not constables who DO NOT swear an oath, but make an affirmation instead, are bound to uphold the laws of Her Majesty Queen Elizabeth the Second;*

5) Please confirm whether or not constables are, once sworn, always on duty whether in uniform or not, and whether at work or not;

6) Please confirm whether or not NZP and its constables operate to enforce the law under Admiralty/Maritime jurisdiction, or under Common Law jurisdiction, or both;

Please provide, as soon as practicable, a reasonable time frame as to when an official response to this request can be given.

Please note that an agency's obligations under the Official Information Act arise in respect of information it holds. An agency is not obliged to form an opinion or create information in order to respond to a questions. The Office of the Ombudsman notes that:

There is a difference between:

- *questions which can be answered by providing information already known to and held by the agency (official information); and*
- *questions which require the agency to form an opinion or provide an explanation and so create new information to answer the request (not official information).*

Police does not hold information which provides a direct answer to your questions. Nevertheless, Police provides the following to assist you.

A discussion of NZ Police's position as "an instrument of the Crown" may be found on the Police website at <https://www.police.govt.nz/sites/default/files/publications/issues-paper-2-governance.pdf>. If you require an opinion on a legal interpretation of 'the Crown' in the Policing Act, you may wish to seek an independent legal opinion. There is publicly available information about what 'the Crown' means – for example, see https://en.wikipedia.org/wiki/The_Crown.

The constabulary oath is set out in section 22 of the Policing Act. It's English form reads:

"I, [name], swear that I will faithfully and diligently serve Her (or His) Majesty [specify the name of the reigning Sovereign], Queen (or King) of New Zealand, her (or his) heirs and successors, without favour or affection, malice or ill-will. While a constable I will, to the best of my power, keep the peace and prevent offences against the peace, and will, to the best of my skill and knowledge, perform all the duties of the office of constable according to law. So help me God."

Section 4(1) of the Oaths and Declarations Act 1957 entitles a person to make an affirmation instead of taking an oath.

The Police policy on Off-duty interventions is detailed in the **attached** document.

Police does not administer legislation relating to Admiralty or maritime law. However, such legislation may provide for constables to exercise certain powers – e.g. Maritime Transport Act 1994, section 33G and others.

I trust this response may assist you, but if you are dissatisfied, you have the right to make a complaint to the Ombudsman.

Yours sincerely

Teresa McMahon
Senior Ministerial Services Advisor
Police National Headquarters