

17 NOV 2020

Grace Haden

[fyi-request-14026-3b04c728@requests.fyi.org.nz](mailto:fyi-request-14026-3b04c728@requests.fyi.org.nz)

Dear Ms Haden

### Official Information Act 1982 request

Thank you for your Official Information Act 1982 (OIA) request dated 23 October 2020 regarding the issuing of search warrants. Your request was as follows:

1. *By way of OIA please provide the policy which an issuing officer (as defined by section 3 of the Search and Surveillance Act 2012) is required to comply with when issuing a search warrant.*
2. *Please provide all documents which explain why a court seal or signature is not affixed to a warrant*
3. *Provide the policy and instructions for the requirement for the original warrant to be produced when being executed.*
4. *Please provide a copy of a sample legal search warrant and provide information as to how the issuing officer can be verified as a legitimately authorised person.*

In response, the information in parts 1, 2, and 3 of your request do not exist. There are no written policies or documents with which issuing officers must comply when they are considering applications for search warrants. Issuing officers act in an independent judicial capacity, and must comply with the requirements of the Search and Surveillance Act 2012 (the Act) when issuing search warrants. Therefore, I am refusing parts 1, 2 and 3 of your request under section 18(e) of the OIA. However, I can provide some general information about the requirements of the Act.

Section 6 of the Act empowers an issuing officer to issue a search warrant, and sets out the circumstances in which they can do so. Section 98 of the Act further sets out the particulars of an application for a search warrant that the issuing officer must ensure are present before issuing the warrant. This section also empowers the issuing officer to require further information, should they believe it is necessary, before issuing the warrant.

There is no legislative requirement for a court seal or signature to be affixed to a warrant. Section 103(4) of the Act sets out the particulars required for a warrant, and a signature is not required. It is not appropriate for a warrant to bear the court seal as a search warrant is not a court order.

Section 105 of the Act allows for a copy of an original search warrant to be used where it is not possible or practicable for the person executing the warrant to have the original in their possession.

I have interpreted question 4 in two parts:

- (a) Please provide a copy of a sample legal search warrant and
- (b) provide information as to how the issuing officer can be verified as a legitimately authorised person

In response to part (a), the Ministry of Justice does not hold a sample legal search warrant, and is not required to create one for the purposes of responding to an OIA request. Section 103 of the Act sets out the form and content required for a search warrant.

In response to part (b), a person is entitled to request verification of a warrant, and by extension of the issuing officer who issued it, and can do so by writing to the Court.

If you are not satisfied with this response, you have the right to complain to the Ombudsman under section 28(3) of the OIA. You can contact the Office of the Ombudsman by writing to PO Box 10152, Wellington 6143; calling 0800 802 602; or emailing [info@ombudsman.parliament.nz](mailto:info@ombudsman.parliament.nz)

Yours sincerely



Richard Williams

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Ref: 84281