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Tēnā koe Ms Haden

Search warrants

Thank you for your email of 18 November 2020 in which you raise questions following the Ministry's Official Information Act 1982 response to you dated 17 November. Your email has been referred to me for response as Manager Operations Support (Seconded), Courts and Tribunals, Regional Service Delivery.

You have suggested that a policy be developed as to what constitutes a legal search warrant, as you believe the issuing officer number and stamp does not provide sufficient identification. You have also asked whether there is any obligation of the court to hold a copy of the warrant and application.

In response, any policy developed by a government department cannot contravene or override legislation. As explained in the Ministry of Justice's response of 17 November, the Search and Surveillance Act 2012 (the Act) determines what must be included in a search warrant. It requires that *either* the name *or* individual designation (a number) of the issuing officer must be present on the warrant; it does not require both.

The Court must retain a sealed copy of an application for a search warrant, but it is not required to keep a copy of the warrant. Section 101 of the Act requires that:

s101(1) a copy of every application for a search warrant must be held at the District Court closest to where the application was made;

s101(2) the applicant must retain a copy of the warrant, application, and any supporting documentation to the application.

As previously advised, a person is entitled to query the validity of a warrant by seeking confirmation with the Court that the individual designation number on the warrant relates to an authorised issuing officer. However, they do not have an automatic right to view the application.

If a person wishes to view an application for a search warrant, they must apply in writing to the Court and a Judge will consider their application. Where no charge has been filed as a result of the execution of a search warrant, a request for access to the application must be made to the High Court. Where a charge has been filed, a request for access to the application must be made to the District Court.

I trust this clarifies the position.

Nāku noa, nā



Rebecca Todd

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