

22 January 2021

David Carlos
fyi-request-14240-15cf28ab@requests.fyi.org.nz

Tēnā koe Mr Carlos

Thank you for your email of 3 December 2020 to the Ministry of Justice (the Ministry) asking the following:

“I want to know if a person is charged with any offence and is found guilty and if he gets a DISCHARGE WITHOUT CONVICTION S106, Will his information/details about incident be still held in Police database/records/courts? And will that information/other details can be released to other agency like MBIE/Immigration without consent of the person involved?”

Please note that all New Zealand agencies must comply with the Privacy Act 2020 (the Privacy Act) relating to protecting an individual’s right to privacy of personal information. A New Zealand agency includes a public sector agency, and a court or tribunal (except in relation to its judicial functions). Personal information must be handled in accordance with the privacy principles in the Privacy Act.

The Ministry creates criminal conviction history reports in response to requests for information about criminal records. A third party may request this information but must get the person whose record is being requested to authorise the request. Under s 106(2) of the Sentencing Act 2002, a discharge without conviction is deemed to be an acquittal. A criminal conviction history report does not include charges that did not result in conviction (i.e. acquittals). More information regarding criminal record checks can be found at justice.govt.nz/criminal-records/what-is-a-criminal-record/.

In relation to court records, the judiciary has the responsibility for the custody and control of records of court proceedings, and control over access to them. Requests for access to court information are determined in accordance with the District Court (Access to Court Documents) Rules 2017 or Senior Courts (Access to Court Documents) Rules 2017.

In response to your enquiry regarding information held in the Police database, I suggest you contact the Police. Please note that there is a difference between a Ministry criminal record check and a Police vetting check performed by the Police Vetting Service. The Police may release any information they hold if it is relevant to the purpose of the vetting request, including charges that did not result in a conviction. You can find out more information about the Police Vetting Service here: police.govt.nz/advice-services/businesses-and-organisations/vetting/information-about-vetting?nondesktop/

If you require any clarification of the information contained in this response please contact Alison Horwood, Media Manager, Media and External Relations, by calling (04) 918 8836; or emailing media@justice.govt.nz

I trust this information will be of assistance to you.

Nāku noa, nā

A handwritten signature in black ink, appearing to be 'RJ', with a long horizontal stroke extending to the right.

Robert Jordan

Manager Operations Support (Acting), Courts and Tribunals, Regional Service Delivery

Ref: 84861