

1 September 2017

Ross Francis

fyi-request-6355-1722374f@requests.fyi.org.nz

Dear Mr Francis

Official Information Act 1982 request: Progress on establishing a Criminal Cases Review Commission

I refer to your FYI request of 6 August 2017 requesting the following information under the Official Information Act 1982 ("the Act"):

"In 2007, the Justice Ministry provided advice to the Government regarding options for establishing a Criminal Cases Review Commission. What work (if any) has been carried out by the Ministry, or any other Ministry or agency, to progress any of the options that were discussed? Please provide copies of all records held by the Justice Ministry about this issue.

According to records held by the Justice Ministry, what is required for a conviction to be considered unsafe?

Since 1 January 2012, has the Department of Internal Affairs - or any other Ministry [sic] or agency - communicated with the Justice Ministry about its obligations under the Public Records Act? Have any complaints been received by the Justice Ministry about its record keeping since the introduction of the Public Records Act? Please provide all records held about these two questions."

I have divided your request into four parts, which I have addressed below.

- 1. In 2007, the Justice Ministry provided advice to the Government regarding options for establishing a Criminal Cases Review Commission. What work (if any) has been carried out by the Ministry, or any other Ministry or agency, to progress any of the options that were discussed? Please provide copies of all records held by the Justice Ministry about this issue.*

In 2007 the Ministry provided advice to the then Minister of Justice on organisational options for addressing miscarriages of justice. Subsequent Ministers have also been advised of these options.

No work to progress any of the options has been requested by Ministers. Accordingly, no further work in this area has been carried out by the Ministry, nor, to my knowledge, by any other Government agency.

As no options have been progressed, your request is refused under section 18(e) of the Act as the requested records do not exist.

2. *According to records held by the Justice Ministry, what is required for a conviction to be considered unsafe?*

We previously provided you with information regarding the principles underpinning the Ministry's advice on exercise of the Royal prerogative of mercy in our letters to you of 3 April 2017 (responding to your request dated 12 March 2017), and 7 February 2012 (responding to your request dated 21 December 2011).

3. *Since 1 January 2012, has the Department of Internal Affairs - or any other Ministry [sic] or agency - communicated with the Justice Ministry about its obligations under the Public Records Act? [Please provide all records held about this question].*

Since 1 January 2012, the Ministry has received formal and informal communications from the Department of Internal Affairs regarding the Public Records Act 2005.

We have interpreted your question to mean formal communications from the Department of Internal Affairs to the Ministry regarding the Ministry's obligations.

Since 1 January 2012, the Chief Archivist of the Department of Internal Affairs has conducted an independent audit of the Ministry and non-judicial authorities in accordance with section 33 of the Public Records Act 2005.

The audit letter and audit report of the Ministry fall within the scope of your request and are detailed at Schedule A. The audit letter and audit report are enclosed, with redactions for information which needs to be withheld to:

- a) Protect the privacy of natural persons – section 9(2)(a). The information contains personal information about individuals; and
- b) Protect information which is subject to an obligation of confidence where the making available of the information would likely otherwise to damage the public interest – section 9(2)(ba)(ii). The information relates to the storage location, security, and access requirements of stored records.

I am satisfied that there are no other public interest considerations that render it desirable to make the information available.

4. *Have any complaints been received by the Justice Ministry about it its [sic] record keeping since the introduction of the Public Records Act? Please provide all records held about these two questions.*

The Ministry does not hold any records of complaints received regarding its record keeping since the commencement of the Public Records Act 2005.

You have the right under section 28(3) of the Official Information Act to complain to the Ombudsman, about the decision to withhold some of the information requested.

Yours sincerely



Jeff Orr
Chief Legal Counsel

SCHEDULE A

#	Document	Comment on release of document
1	Archives New Zealand "Public Records Act Audit Findings Report – Ministry of Justice" dated 24 April 2015	Released with redactions
2	Archives New Zealand "Summary of findings of the audit of the Ministry of Justice under the Public Records Act 2005"	Released with redactions