

19 October 2017

Ross Francis
fyi-request-6509-4914af55@requests.fyi.org.nz

Dear Mr Francis

Official Information Act 1982 request: Destruction of Videotaped Interviews

I refer to your FYI request of 2 September 2017 to the New Zealand Police, which was transferred to the Ministry on 22 September 2017, requesting the following information under the Official Information Act 1982 ("the Act"):

"On 11 May 2009, the Justice Ministry provided the Minister of Justice with advice related to the Peter Ellis case. This advice can be found here:

<https://www.beehive.govt.nz/sites/all/files/Commission%20of%20Inquiry%20-%20Mr%20Peter%20Ellis.pdf>

I refer to paragraph 24 of the Ministry's advice. The Ministry says it has "initiated enquiries with the Police and Christchurch High Court" about the existence of videotaped interviews of children caught up in the Ellis case.

Please provide me with all communication and information from the Justice Ministry to the Police, and from the Police to the Justice Ministry, regarding their enquiries into the existence of those videotaped interviews.

Has each videotaped interview of children caught up in the Ellis case been retained by Police? If not, how many videotaped interviews have been destroyed?

When are children's videotaped interviews generally destroyed and what is the purpose of their destruction?"

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

1. *Please provide me with all communication and information from the Justice Ministry to the Police, and from the Police to the Justice Ministry, regarding their enquiries into the existence of those videotaped interviews.*

Schedule A sets out the documents which fall within the scope of your request together with my decision on release. Certain information has been withheld under section 9(2)(a) of the Act to protect the privacy of natural persons.

The documents enclosed relate to the Ministry's initiation of enquiries with the Police regarding the existence of videotaped interviews of children in Mr Ellis's case, when the matter of a Commission of Inquiry into Mr Ellis's case was being considered in 2009.

2. *Has each videotaped interview of children caught up in the Ellis case been retained by Police? If not, how many videotaped interviews have been destroyed?*

Please refer to the documents enclosed which show that the Police did not retain the videotaped interviews of the child complainants in Mr Ellis's case. At the time when the Commission of Inquiry was being considered, the videotaped interviews of the child complainants in Mr Ellis's case were held at the Christchurch High Court.

3. *When are children's videotaped interviews generally destroyed and what is the purpose of their destruction?"*

The retention and destruction of video records of a witness's evidence in criminal proceedings are dealt with in accordance with the Evidence Regulations 2007, which came into force on 1 August 2007.

Prior to the Evidence Regulations 2007, the Evidence (Videotaping of Child Complainants) Regulations 1990 and subsequent amendments to these Regulations prescribed the procedures for the destruction and custody of videotaped evidence of a child complainant.

You have the right to complain to the Ombudsman under s 28(3) of the Act and seek a review of this response.

Yours sincerely



Jeff Orr
Chief Legal Counsel

SCHEDULE A

#	Date	Document	Comment on release of document
1	8 May 2009	Email from Ministry of Justice to Police: "Video tapes"	Released with redactions under section 9(2)(a) of the Act
2	12 June 2009	Email chain from Police to Ministry of Justice, including internal Police emails	Released with redactions under section 9(2)(a) of the Act

From: Orr, Jeff
Sent: Friday, 8 May 2009 10:03 a.m.
To: Withheld s 9(2)(a)
Subject: Video tapes

Hi Kevin:

The Minister of Justice is considering a request for a Commission of Inquiry into the Ellis case. If established, such a Commission would require access to the video tapes of the child complainants' evidence. Without that evidence, there would be little point in an Inquiry into Mr Ellis' conviction. My question then is where are the video tapes? I believe there were taped interviews of children whose evidence led to charges and others whose evidence did not lead to charges.

Would it be possible for you to check and see if any of the videos are still held by Police (either in Christchurch or National headquarters, I'd expect)? I am also checking with the High Court.

Sorry to keep coming to you with queries when I know you are busy, but the continued existence (there are requirements about handling and destruction of video tapes in child sex abuse cases) and whereabouts of the video tapes is a key consideration to the Minister's decision.

Much appreciated. And we need to get that coffee (or might be easier to get a beer after work).

Thanks,

Jeff

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Orr, Jeff

From: Withheld s 9(2)(a)
Sent: Friday, 12 June 2009 12:09 p.m.
To: Orr, Jeff
Subject: Fw: Ellis case - interview tapes
Attachments: pic16714.gif

Hi Jeff

On 8 May you sent an email to Kevin Kelly about the location of the Ellis video tapes. We have had some trouble finding out the answer and that is why a response by Police has taken so long. As you will see below, it appears that the tapes are held by the Christchurch High Court, and that Police and CYF do not hold copies of them.

Regards

Scott

----- Forwarded by Scott Spackman/POLICE/NZ on 12/06/2009 12:04 -----

Ellis investigation interview tapes

Ian McArthur to: Scott Spackman

12/06/2009 11:17

Hi Scott

I have made inquiries regarding the whereabouts of these tapes. Mr Chris Lange of the local Crown Solicitor's office indicates that the original copies of these tapes are held at the Christchurch Court, (High Court I believe). Mr Lange indicated that CYF's at Christchurch would hold the tape copies. I have made inquiries with CYF's in Christchurch and today was contacted by a Ms Leslie Brewer, (Privacy Officer) and advised that CYF's do not hold the tape copies. Apparently last year Ms Brewer inquired about the files pertaining to this investigation. She contact our Privacy Officer, presumably Carolyn Richardson, although she could not recall the name of the person, and was told that the police held the files. I have made inquiries here and been advised that we do not hold the tapes.

Perhaps an inquiry with Carolyn would clarify this. If you want me to inquire further please advise.

Regards

Ian McArthur
Manager
South Island Legal Service Centre
CHRISTCHURCH
Withheld s 9(2)(a)

Facsimile (03) 377 6480