

16 April 2012

Joshua Grainger
Email: requests@fyi.org.nz

Dear Mr Grainger

Official Information Act Request
Our Ref: OIA353/1

1. I refer to your email of 15 March 2012 requesting information under the Official Information Act 1982. You asked for:
 - 1.1 statistics of how often consent to lay charges has been given for 'consent to prosecute crimes', along with a tally of how often consent has been refused, broken down by the particular criminal charge;
 - 1.2 any correspondence, emails, reports, or other information that would help explain the reason why consent was declined for the last three cases in which this occurred; and
 - 1.3 a copy of any policies or processes followed to determine whether consent to prosecute should be given.
2. The Chief Ombudsman has ruled that the Solicitor-General, when performing law officer functions, falls outside the scope and jurisdiction of the Official Information Act (Case No W44280). In determining whether or not to give consent to prosecute, the Solicitor-General is acting in a law officer role and is thus not subject to the Official Information Act 1982.
3. In any case, much of the correspondence you requested is legally privileged information and is not required to be disclosed under section 9(2) of the Official Information Act 1982.
4. As a matter of courtesy, we have collated the statistics on consent to prosecute from the period beginning 1 April 2011 and ending 1 April 2012. **Attached** is a table displaying the results.
5. I refer you to the website of Crown Law; www.crownlaw.govt.nz. Under the 'Publications' tab you will find the Prosecution Guidelines, which contain the criteria used to determine whether consent to prosecute should be given. You can also find

a list of all the statutory offences requiring the consent of the Attorney-General under that tab. You may also find John McGrath's article "Principles for Sharing Law Officer Power: The Role of the New Zealand Solicitor-General" (1998) 18 NZULR 197 of interest. This can be found under the Publications tab underneath the heading 'articles'.

Yours sincerely

A handwritten signature in black ink, appearing to read "A van Echten". The signature is written in a cursive, slightly slanted style.

Abigail van Echten
Assistant Crown Counsel

Consent to prosecute 1 April 2011 – 1 April 2012

Statute	Requests received	Consent granted	Consent declined	Still in progress
s7B, Crimes Act 1961 (extraterritorial jurisdiction over offences with transnational aspects)	1	1	-	-
s10B, Crimes Act (period of limitation)	1	-	-	1
s 98C, Crimes Act (smuggling migrants)	2	2	-	-
s104, Crimes Act (corruption and bribery of law enforcement officer)	1	1	-	-
s 105, Crimes Act (corruption and bribery of official)	2	1	1	-
s 144A, Crimes Act (sexual conduct with children and young people outside New Zealand)	2	1	-	1
s 12, Secret Commissions Act 1910 (prosecutions under that Act)	1	-	1	-
s144, Films, Videos and Publications Classification Act 1993 (relating to objectionable and restricted publications etc)	29	29	-	-
TOTAL:	39	35	2	2