

Disclosing personal and official information

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RELEASED UNDER THE OFFICIAL INFORMATION ACT

Summary

Introduction

This chapter:

- provides guidance on voluntarily disclosing or responding to requests for official and personal information from individuals, government departments and other agencies and organisations
- explains the law you must consider before disclosing information
- details the Police procedures you must follow, including sample letters to help you respond to requests.

For information on disclosing information to the defence before trials, see the [Criminal disclosure](#) chapter in the Police Manual.

Legislation governing disclosure

Your decision whether to disclose information, what to disclose and when, may be governed by:

- [Privacy Act 1993](#)
- [Official Information Act 1982](#)
- [Criminal Records \(Clean Slate\) Act 2004](#)
- [Criminal Disclosure Act 2008](#), or
- other legislative provisions that require or allow disclosure.

Your responsibility to respond to disclosure requests

A response to a request for information is mandatory, even if no information is disclosed. Failure to respond at all, or failure to respond according to the legislative requirements, may:

- lead to a complaint being made to the Privacy Commissioner or the Office of the Ombudsmen
- result in proceedings being brought before the Human Rights Review Tribunal.

A finding that Police has interfered with an individual's privacy can result in substantial damages being awarded against Police.

Who to contact for further information or advice

If, after reading this chapter, you need further information or advice, contact the:

- District O/C File Management Centre, or
- [PNHQ Executive & Ministerial Services](#), or
- [District or PNHQ Legal advisers](#)

Disclosure under the Privacy Act 1993

Introduction

This section explains:

- the purpose of the Privacy Act in protecting personal information
- the provisions to be considered before responding to a request.

Personal information defined

“Personal information” means any information about an identifiable person.
([s2](#) Privacy Act 1993)

Why the Privacy Act was introduced

The Privacy Act was introduced to promote and protect individual privacy. It establishes certain principles relating to the collection, use and disclosure by [agencies](#) of information relating to individuals.

The Privacy Act also provides individuals with the right to request access to their information (but not to possess or remove original documents) and to request correction if they consider it to be incorrect.

NZ Police is an “agency”

As New Zealand Police is an agency as defined by [section 2](#) of the Act all Police employees must understand their obligations with regard to handling information.

Information held by an employee of an agency in their capacity as an employee is deemed to be held by the agency itself ([s3\(1\)](#)).

Responsibilities of an agency

For the purposes of the Privacy Act, an action done by, or information disclosed to, a person employed by or in the service of an agency in the performance of their employment duties shall be treated as having been done by, or disclosed to, the agency ([s4](#)).

This means that Police is responsible for the actions of its employees in the performance of their duties. This is also reflected in section [126\(1\)](#), which states that an employee’s actions are deemed to be those of the employer whether or not the employer knew or approved of the employee’s actions.

However Police may have a defence if it can prove that reasonably practicable steps (such as training) were taken to prevent the employee breaching any provision in the Privacy Act.

Information privacy principles

[Section 6](#) of the Act sets out twelve information privacy principles. They are “rules”, some with exceptions, dealing with matters relating to access to information and the collection, storage and security, correction, accuracy, retention, use and disclosure of personal information held by agencies.

Most relevant principles for Police

This table outlines the three information privacy principles most relevant to Police.

Information privacy principle (IPP)	Description
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Information privacy principle 6 - Entitlement to access personal information	This principle covers requests by individuals for information about themselves. You will most often deal with this principle.
Information Privacy Principle 7 – Entitlement to request correction to personal information	Under this privacy principle a person may request the correction of personal information held about them by an agency. If Police is not willing to make the correction sought, a statement of correction provided by the requester must be attached to the information.
Information Privacy Principle 11 – Disclosure by an agency	This privacy principle puts limits on when an agency may disclose information unless it is permitted by an exception. It also governs voluntary disclosures and the release of information in the absence of a request.

Form of the request

Requests can be oral or in writing. It is preferable that requests are in writing, (and requesters can be asked to put their request in writing) but Police cannot require it. (Ask requesters to complete a [Request for information held by Police](#)).

You have an obligation to assist a requester so that their request is made in the correct manner or to the appropriate agency ([s38](#)).

Making the information available

If the requester asks for information to be provided in a particular way, it must be provided in that way unless doing so would:

- impair efficient Police administration, or
- be contrary to a legal duty of the Police in respect of the document, or
- prejudice the interests protected by the withholding grounds in sections 27, 28 or 29 of the Act and, in the case of section 28, there is no countervailing public interest.

If you are not able to provide the information in the manner requested, you must provide the requester with the reason and, if requested, the grounds for that reason, unless doing so would prejudice the interests referred to above ([s42](#)).

Note: Follow the procedures in the [Electronic redaction](#) chapter when part(s) of information provided electronically is withheld. These procedures ensure the information blanked out cannot be restored or the document modified by the recipient.

Transferring personal information requests

When the personal information requested is not held by Police but is believed by the person dealing with the request to be:

- held by another agency, or
- more closely connected with the functions of another agency...

...Police must, not later than 10 working days after the day on which the request is received, transfer the request to the other agency, and inform the requester of that transfer ([s39](#)).

Time limits and extensions (personal information)

Requests must be processed and a decision made on whether and how to grant it and the requester notified accordingly as soon as reasonably practicable, but not later than 20 working days from the day after the request is received ([s40](#)).

If you cannot communicate the decision within the 20 day limit, consider whether you need to notify an extension. Note that undue delay is deemed to be a refusal ([s66\(4\)](#)).

When you can have an extension

If the decision whether to disclose the information cannot be made within the time limit (20 working days), that limit can be extended when:

- the request is for a large amount of information or requires you to search a large quantity of information, and meeting the limit would unreasonably interfere with Police operations, or
- a decision on the request requires such consultation that it cannot reasonably be made within the 20 working day limit.

The extension period must be reasonable in the circumstances and be notified before the 20 working day limit expires.

([s41](#))

How to notify an extension

Notify the requester of:

- the period of the extension (a good rule of thumb is 20 working days, but [contact](#) the Privacy Office at PNHQ if this will not be adequate time)
- reasons for it
- their right under section [67](#) to complain to the Privacy Commissioner
- any other relevant information.

For a standard letter notifying an extension see [Notification of extension](#).

Urgent requests

If the requester wants the request dealt with urgently, they must give reasons for this ([s37](#)). You should do your best to respond with urgency.

Withholding information

Requests for personal information may be refused entirely or in part. The grounds for withholding information are listed in sections [27](#) to [29](#) of the Privacy Act 1993.

For more information on withholding information under the Privacy Act, see [When to withhold information about the individual](#).

Limits on charging for providing personal information

You must not charge people for providing them with personal information, unless this is specifically allowed for in statute ([s35](#)).

Disclosure under the Official Information Act 1982

Introduction

This section explains:

- when the Official Information Act applies
- the provisions you must consider before responding to a request.

Official information defined

In summary, “official information” is any information held by a Department, a Minister of the Crown in their official capacity, or an organisation. It includes any information held outside New Zealand by any branch or post of a Department or organisation ([s2\(1\)](#) Official Information Act 1982).

When the Official Information Act applies

All requests made to a public sector agency for information that is **not** about the requester must be considered under the Official Information Act 1982.

The Act only applies in response to a request.

Principle of availability

Official information requested under the Official Information Act must be provided unless there is good reason for withholding it ([s5](#)).

The grounds for withholding information under the Act are set out in sections [6](#) to [9](#) and section [18](#).

Privacy interest

One of the purposes of the Official Information Act 1982 is to “protect official information to the extent consistent with the public interest and the preservation of personal privacy”. Accordingly, one of the permitted reasons for withholding information is to protect privacy interests.

You may withhold information to protect the privacy of natural persons, unless, in the circumstances of the particular case, the withholding of that information is outweighed by other considerations which render it desirable, in the public interest, to make that information available ([s 9\(2\)\(a\)](#)).

For further information about balancing the privacy and public interest in making information available, see [When to withhold non-personal \(official\) or third party information](#) in this chapter.

Who can make a request

A request can be made by:

- a New Zealand citizen
- a person who is a resident or is in New Zealand
- a body corporate incorporated in New Zealand or having a place of business in New Zealand.

([s 12](#))

The form of the request

Requests can be made in writing or orally. You cannot require that the request be written, but can ask the requester to put their request in writing. (Ask them to complete a [Request for information held by Police](#)).

You have an obligation to provide assistance.

Information requested must be specified with due particularity. If you receive a vague request, go back to the requester and ask for it to be clarified ([s12](#)).

Making official information available

Official information may be made available by:

- allowing the person to inspect the original document
- providing the person with a copy of the document
- allowing the person to listen to an audio recording or watch a video recording
- providing a written transcript
- giving a summary of the contents
- telling the person about its contents.

If the requester asks for the information to be provided in a particular way, it must be provided in that way unless doing so would:

- impair efficient Police administration, or
- be contrary to a legal duty of the Police in respect of the document, or
- prejudice the interests protected by sections [6](#), [7](#) or [9](#) of the Official Information Act and, in the case of section 9, there is no countervailing public interest.

If you are unable to provide the information in the way requested, give the requester the reason and, if requested, the grounds for that reason, unless doing so would prejudice the interests referred to above.

([s16](#))

Note: Follow the procedures in the [Electronic redaction](#) chapter when part(s) of information provided electronically is withheld. These procedures ensure the information blanked out cannot be restored or the document modified by the recipient.

Transferring official information requests

When the information requested is not held by Police but is believed by the person dealing with the request to be:

- held by another organisation, or
- more closely connected with the functions of another organisation...

...you must, not later than 10 working days after the day on which the request is received, transfer the request to the other organisation, and inform the requester of the transfer ([s14](#)).

Time limits and extensions (official information)

The request must be processed and a decision made on whether and how to grant it and the requester notified accordingly, as soon as reasonably practicable but not later than 20 working days from the day after the request is received ([s15\(1\)](#)).

When you can have an extension

If the decision whether to disclose official information cannot be made within the time limit (20 working days), that limit can be extended when:

- the request is for a large volume of material or necessitates searching through a large quantity of information, and meeting the time limit would unreasonably interfere with Police operations, or

- consultations on the decision are required and as a result a proper response cannot reasonably be made within the original time limit.

The extension period must be reasonable in the circumstances and be notified before the 20 working day limit expires.

([s15A](#)).

How to notify an extension

Notify the requester of:

- the period of the extension (a good rule of thumb is 20 working days, but contact the Privacy Office at PNHQ if this will not be adequate time)
- reasons for it
- their right under section [28\(3\)](#) to complain to the Office of the Ombudsmen.
- any other relevant information.

([s 15A\(4\)](#)).

For a standard letter notifying an extension see [Notification of extension](#).

Urgent requests

If the requester wants their official information request dealt with urgently, they must give reasons for the urgency ([s12\(3\)](#)). You should do your best to respond with urgency.

Statutory protection when releasing information in good faith

If information is released in good faith in response to a request under the Official Information Act, you have statutory protection against civil and criminal proceedings ([s 48](#)).

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Charging for providing official information

Right to charge for official information

Under section 15, requesters may be charged for information supplied, but in reality Police rarely imposes a charge. (Note that there is no right to charge for providing personal information unless a statute specifically provides for that).

If Police want to charge for supplying official information, any charge fixed:

- must be reasonable
- may have regard to the cost of the labour and materials involved in making the information available, and to any costs incurred due to a requester's request to make the information available urgently.

Calculating charges

The [Charging Guidelines for Official Information Act 1982 Requests](#) issued by the Ministry of Justice:

- provide a basis for assessing a reasonable charge for Official Information Act requests
- give an indication of factors which may be relevant when assessing whether it is reasonable to charge for the supply of information.

This table outlines key charges recommended in the guideline.

Item	Charge rate or policy
Staff time spent processing a request	<p>The first hour is free. Additional time spent should be charged at a maximum of \$38 for each half hour or part thereof.</p> <p>Aggregate staff time can include searching for, abstracting and collating, copying and transcribing, retrieving information, but not time spent locating information that was mislaid or incorrectly filed.</p> <p>If the request is for access only, the time can include searching for, locating and retrieving the information and supervising the access.</p>
Photocopying	<p>Charge at the rate of 20 cents for each page after the first 20 pages.</p> <p>This applies only to standard A4 sized paper. Non-standard size should be charged at cost.</p>
GST	<p>Include GST in all charges. Do not impose GST as an extra charge.</p>
<p>Other charges including:</p> <ul style="list-style-type: none"> • providing documents on CD • retrieving information off-site • reproducing photographs, films, videos and audio recordings • arranging to hear audio or view video recordings. 	<p>Fix charges at an amount that recovers the actual costs involved.</p>

What you cannot charge for

Charges cannot be fixed for time spent or expenses (including legal expenses) incurred deciding on whether or not or to what extent information can be made available. Charges relate only to the costs incurred in processing the request.

For example, time spent on the decision to delete withheld information is not chargeable but time spent on the physical editing is chargeable.

Informing the requester of charges

Inform the requester of:

- the method used to calculate the charge
- their right to have an Ombudsman review the proposed charge.

For an example of a letter recording how a charge has been calculated, see [Letter explaining charges](#). Make sure you keep a copy of the letter so that you know how the charge was arrived at.

Waiving the fee

You can reduce or waive the charge in special circumstances. These may include:

- the inconvenience of imposing a charge
- the small amount by which the margins for aggregate time or photocopying are exceeded
- when the charge would cause financial hardship
- when the charge would impact badly on public relations.

Deposit

You can require a deposit if the charge is likely to exceed \$20 or you need an assurance that resources are not being wasted. In general, the deposit must be received before work on the request is begun. Any unused portion of a deposit must be refunded. Notify the requester of the:

- amount of the deposit
- method of calculation
- likely total charge.

Alternatively in some instances it may be necessary to ask the requester to pay the amount of the charge before the request is processed.

Accounting procedures

Usual accounting procedures must be complied with.

Criminal Records (Clean Slate) Act 2004

About the clean slate scheme

The clean slate scheme, governed by the [Criminal Records \(Clean Slate\) Act 2004](#) (CSA), offers individuals who satisfy the [eligibility criteria](#) (eligible individuals) the right to have their criminal record and information about it concealed by government departments and law enforcement agencies. The person is deemed to have no criminal record for the purposes of any question asked about their criminal record.

There are some exceptions to the CSA allowing Police to use or disclose full criminal records in many areas of Police work regardless of whether the person qualifies to have their criminal record concealed.

Even if the use or disclosure of a person's criminal record is permitted under the CSA, there may be other limitations on the use or disclosure of that information under the Privacy Act 1993 or the Official Information Act 1982.

Note that non-compliance with the CSA could result in a [severe penalty](#).

For further information see [Policing work subject to the Clean Slate Scheme](#) and [Exceptions to the clean slate scheme](#) in this chapter.

Definition of a criminal record

The definition of criminal record (s4 CSA) is broad and is not limited just to criminal convictions but includes other associated information. It would include for example, information about criminal records such as notings, prisoner photographs, fingerprint records or family violence records.

Eligibility for the clean slate scheme

The Ministry of Justice (MOJ) administers the clean slate scheme. If you receive a request from an individual asking if they are "eligible" refer the requester to [MOJ](#).

Eligibility criteria

To be eligible under section 7 for the clean slate scheme, a person must meet **all** these eligibility criteria:

- No convictions within the last 7 years.
- Never been sentenced to a custodial sentence. (This includes corrective training, preventive detention, imprisonment served by home detention, and any other sentence requiring the individual's full-time detention.
- Never been ordered by a court following a criminal case to be detained in a hospital, due to a mental condition, rather than being sentenced.
- Never been convicted of a "specified offence". These offences are listed in section 4 and include rape, indecent assault and sexual offending against vulnerable people such as children and young people or mentally impaired persons.
- Has paid in full any fine, reparation or costs ordered by the court in a criminal case.
- Never been indefinitely disqualified from driving under section 65 of the Land Transport Act 1998 or section 30A of the Transport Act 1962.

Once an individual meets all of the criteria, they are automatically an "eligible individual" and entitled to the benefits under the CSA. They do not need to make a specific application. In the same way, however, if they are subsequently convicted of an offence, the individual is no longer an "eligible individual" until they once again meet all of the eligibility criteria.

Applications to reduce time or disregard a specified offence

It is possible for a person to apply to a court to have the seven-year eligibility period reduced in limited circumstances. An individual can also apply to the court to have a “specified offence” disregarded for the purposes of determining whether that individual meets the clean slate eligibility criteria.

Therefore the only way to know for sure whether a person is eligible is by asking your designated district representative to carry out a clean slate eligibility check. (Ss [9](#) & [10](#)).

Checking clean slate eligibility

In areas of policing work subject to the clean slate scheme, Police have the ability to carry out a clean slate query. To find out whether a person is an eligible individual in these areas of policing work:

- contact the designated district representative who has access to the NIA clean slate query function which checks the Ministry of Justice system
- ask that person to carry out a clean slate eligibility check.

Prohibition on disclosing records of eligible individuals

Under section [16](#) of the Act, a law enforcement agency or an employee of a law enforcement agency that holds or has access to criminal records:

- when responding to a request for disclosure of an eligible individual’s criminal record or information about it must not disclose it (unless the request is from the individual to whom the request relates or the exceptions in section [19](#) apply)
- may only use those criminal records for a purpose authorised under the Act.

Note: It is an [offence](#) to require or request an individual to disregard the clean slate scheme. So, for example, a third party such as a private sector company could not require all prospective employees to authorise disclosure of their full criminal record as an attempt to get around the Act.

Offences

Offence	It is an offence to...	Liable on summary conviction to
Unlawful disclosure (s 17)	unlawfully disclose to any person, body or agency the criminal record, or information about the criminal record, of an eligible individual that is required to be concealed.	a fine not exceeding \$20,000.
Unlawful request to disregard clean slate scheme (s 18)	require or request, without lawful authority under this Act, an individual to: <ul style="list-style-type: none">• disregard the clean slate scheme when answering a question about their criminal record, or• disregard the clean slate scheme and disclose, or consent to the disclosure of, their criminal record.	a fine not exceeding \$10,000.

Policing work subject to the clean slate scheme

Most licensing applications

The clean slate scheme applies to many licensing applications, including those under the [Sale of Liquor Act 1989](#) and the [Private Investigators and Security Guards Act 1974](#). A clean slate eligibility check must therefore be conducted before any criminal record or information about it is used or disclosed in this context.

The clean slate scheme does not apply to firearms licence applicants (see [Exceptions to the clean slate scheme](#)).

For further information about the impact of the clean slate scheme on particular licensing applications refer to these chapters in the Police Manual:

- [Vetting, references and certificates](#)
- [Sale of Liquor](#)
- [Gambling and lotteries](#)
- [Dealers and traders](#)

Joint-agency investigations with non law enforcement agencies

When working with an agency that is [not a law enforcement agency](#) you must comply with the CSA when considering sharing criminal records and information about [criminal records](#). Generally, disclosure of such information is not allowed to agencies that are not law enforcement agencies. This is because it would be a [breach of the CSA](#) if the individual concerned is an "[eligible individual](#)".

From time to time Police carry out joint investigations with agencies which are not "law enforcement agencies" as that term is defined in the CSA. Examples of non law enforcement agencies Police may work with include:

- Ministry of Fisheries
- the Department of Internal Affairs
- Accident Compensation Corporation (ACC)
- Department of Conversation
- Civil Aviation Authority (CAA)
- Maritime New Zealand,
- Ministry of Agriculture and Forestry
- Environmental Risk Management Authority (ERMA), and
- NZ Fire Service.

For further information about the impact of the clean slate scheme on joint-agency investigations refer to these chapters in the Police Manual:

- [Procedures](#) in the chapter Arson
- [Powers of Police as gambling inspectors](#) in the chapter Gambling and lotteries
- [Investigations](#) in the chapter Objectionable publications

Sharing criminal record information with a non law enforcement agency in joint investigations

If you believe a joint-agency investigation involving a non law enforcement agency would be significantly enhanced by including a criminal record and information about it in joint briefings, you must first find out whether the suspect is an [eligible individual](#) under the CSA.

After [checking the suspect's eligibility](#), follow this table.

If the check shows ...	then ...
The suspect is not an eligible individual	You may disclose the criminal record and information about it to the agency (but only if it has been requested under the Official Information Act 1982 or disclosure is permitted by an exception to principle 11 of the Privacy Act 1993).
The suspect is an eligible individual	The person is deemed to have no criminal record and you must not disclose their criminal record or any information about it to the agency. Your response to the agency will be: "This individual has no criminal record".

Jury vetting

The Supreme Court judgment in *R v Gordon-Smith (No 2)* [2009] 1 NZLR 725 confirmed the lawfulness of the practice known as "jury vetting".

Normally, Police provide Crown Solicitors with previous criminal convictions of potential jurors, to assist the Crown Solicitor in determining whether or not to challenge those people from becoming jurors. However, such jury vetting is subject to the clean slate scheme. Any jury vetting must be carried out using the [NIA clean slate query function](#) to ensure criminal records of [eligible individuals](#) are not used for this purpose.

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Exceptions to the clean slate scheme

Exceptions to the scheme relevant to Police

When an exception applies (listed in s19) even if the person meets [eligibility criteria](#), Police may use or disclose that record or information about it. However, at that point you must still take into account the provisions of the Privacy Act 1993 and Official Information Act 1982 (if applicable) before proceeding.

The exceptions relevant to Police include when the:

- criminal record or information about it is necessary for the exercise of the prevention, detection, investigation or prosecution functions of Police, e.g. Police can:
 - put a print out of a person's criminal history on the prosecution file and consider criminal records of suspects during criminal investigations
- criminal record or information about it is relevant to any criminal or civil proceedings before a court or tribunal (including sentencing) or proceedings before the Parole Board
- eligible individual has made an application of any kind under the Arms Act 1983 and Police are considering whether they are a fit and proper person for the purposes of that application
- eligible individual has applied:
 - for employment as a Police employee, or
 - to act in a role predominantly involving the care and protection of, but not predominantly involving the delivery of education to, a child or young person (e.g. foster parent or caregiver)
- eligible person's criminal record or information about it is relevant to an investigation under section 17 of the Children, Young Persons, and Their Families Act 1989 (report of ill-treatment or neglect of a child or young person) or in relation to any subsequent Part II procedures (e.g. family group conference, or care or protection application).

These exceptions do not apply to:

- vetting of jurors
- vetting of relatives of prospective Police employees. They will be entitled to the benefits of the CSA if they are "eligible individuals".

Joint-agency investigations with other law enforcement agencies

Police may disclose an eligible individual's criminal record or information about it to a "law enforcement agency" if it is necessary for the exercise of that agency's prevention, detection, investigation, or prosecution functions ([s19\(3\)\(a\)\(i\)](#)).

Currently, under section 4 of the Criminal Records (Clean Slate) Act, the law enforcement agencies are:

- an agency that holds or has access to information described in the [Fifth Schedule](#) of the Privacy Act 1993 (e.g. Ministry of Justice, Department of Corrections, Serious Fraud Office, Land Transport Safety Authority, Ministry of Transport and Ministry of Economic Development)
- Department of Labour
- Inland Revenue Department
- New Zealand Customs Service.

Exceptions do not apply to [joint-agency investigations with non law enforcement agencies](#).

Other relevant Acts

Statutory powers to require information

Some government departments have a specific statutory power to require you to provide the information sought. These powers override the general prohibitions in the Privacy Act from disclosing personal information and include:

- [s17](#) Tax Administration Act 1994
- [s64](#) Immigration Act 1987
- [s161](#) Customs and Excise Act 1996
- [s11](#) Social Security Act 1964
- [s78A](#) Education Act 1989
- [s5](#) Serious Fraud Office Act 1990
- [s201](#) Fisheries Act 1996
- [s66](#) Children, Young Persons, and Their Families Act 1989
- [s40](#) Conservation Act 1987
- [s62](#) Health and Disability Commissioner Act 1994.

Statutory provisions providing grounds to withhold information

Some statutory provisions contain specific grounds for withholding information including:

- [s16](#) Victims' Rights Act 2002 (restriction on disclosing victim's precise address)
- [s23](#) Victims' Rights Act 2002 (prohibition on providing copy of victim impact statement to offender to keep)
- [s312K](#) Crimes Act 1961 (substance of information obtained by way of interception warrant not to be disclosed)
- [s20](#) Financial Transactions Reporting Act 1996 (suspicious transaction reports not to be disclosed).

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How the Acts inter-relate

Introduction

This section explains the relationship between the [Privacy Act 1993](#), the [Official Information Act 1982](#) and other relevant statutes, and how to work out which Act applies in the circumstances.

Official Information Act overrides the Privacy Act

Section [7](#)(1) & (2) of the Privacy Act states that nothing in principles 6 or 11 overrides the provisions in any other statute that requires or authorises the disclosure of information. Therefore, the Official Information Act (OIA) overrides the Privacy Act.

However, section [12\(1A\)](#) of the Official Information Act states that if a person requests information about themselves under that Act, Privacy Principle 6 of the Privacy Act applies.

Other Acts override the Privacy Act

Provisions in other statutes that require or authorise Police to disclose information override Privacy Principles 6 and 11. These provisions enable government departments to obtain information to carry out their statutory functions.

How to work out which Act applies

Use this table as a guide to determining what Act applies.

Situation	Applicable statute
Request for personal information has been made	When a person requests personal information held by Police, the first question to ask is: "Is the request for information about the person making the request?" If it is, Privacy Principle 6 of the Privacy Act applies. See Requests from individuals seeking information about themselves
Request for non-personal (official) information has been made	If the request is for non-personal (official) information or information about someone other than the person requesting it, the Official Information Act applies. See Requests from individuals seeking non-personal (official) or third party information . If the request is for a criminal record, notings, or photographs of offenders, the Criminal Records (Clean Slate) Act 2004 may provide a prohibition on releasing that information. See guidance in this chapter on the Criminal Records (Clean Slate) Act 2004 . If the Criminal Records (Clean Slate) Act (CSA) does not allow disclosure of information, then the OIA must be refused. Refusing a request under s18(c)(i) of the OIA applies when disclosing information requested would be contrary to a provision in another enactment such as the CSA.

<p>No request has been made</p>	<p>In the absence of a request, Privacy Principle 11 of the Privacy Act applies. This principle prohibits agencies from disclosing personal information to third parties, but also lists circumstances in which the prohibition does not apply. See Voluntary disclosure by Police.</p> <p>In addition, the prohibition contained in principle 11 is overridden by certain provisions in other statutes that enable government departments to require disclosure. See Requests from government departments or agencies</p>
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Decision-making flowchart

Download the [decision-making flowchart](#) (word doc, 430 KB).

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Requests from individuals seeking information about themselves

Introduction

When receiving a request from individuals seeking information about themselves:

- consider the legislation governing your response and give reasonable assistance to the requester
- [identify the requester](#)
- [action the request](#)
- provide the information requested if there is no reason to withhold it
- even if there is reason to withhold it, respond to the request within the statutory timeframe.

Identifying the requester

Under section [45\(a\)](#) of the Privacy Act you must satisfy yourself about the identity of the individual making the request.

Use one of the following forms of identification:

- driver licence
- passport
- community services card
- credit card
- other identification bearing the requester's signature.

Photocopies are acceptable provided they have been endorsed as a true copy of the original by a:

- Police constable
- Justice of the Peace
- Solicitor
- Registrar or deputy registrar of a court
- Judge
- Other person authorised to take statutory declarations.

When to ask for identification and what to do with the documents

This table explains when identification documents are necessary and what to do with them.

If ...	Then ...
You know the requester personally	A form of identification is not necessary.
You do not know the requester	Ask to see an acceptable form of identification. Photocopy the identification documents and return them immediately to the person. Note the photocopies are true copies of the original and put them in a file.
The requester has posted original identification documents	Immediately photocopy them and post them back to the requester. Note the photocopies are true copies of the original and put them in a file.
The requester makes the request in person and provides original identification documents	Photocopy the documents and return them immediately to the person. Note the photocopies are true copies of the original and put them in a file.

The requester has posted a photocopy of identification documents	Put it on file. A photocopy is acceptable unless you have cause for suspicion e.g. signature that does not match.
The request is made through an agent	Ensure the agent has the requester's written authority to act on their behalf (s45(c) Privacy Act). This must be attached to the request. Check that the authority identifies both the requester and the agent, and identification documents (originals or photocopies annotated as true copies) are produced for both. Put photocopies in a file.

How to action the request

Follow this procedure to action the request.

Step	Action	
1	Make a file for the request. If the request has been made orally, job sheet it.	
2	Enter it in doc-loc case in NIA.	
3	Code the file 2Z.	
4	Place photocopies of the requester's identification documents in the file.	
5	Consider whether the information requested contains information about other identifiable individuals. If it does, decide whether disclosure would involve unwarranted disclosure of the affairs of another person.	
6	Consider the following:	
	If the information requested is...	Then...
	Not specific enough to enable the information to be identified	Request clarification from the requester. (See sample letter).
	Held on NIA	Forward the request to the district co-ordinator.
	In any other paper file	Forward it to the O/C case of that file. If the O/C case cannot be found, has left Police or is unable to deal with the request, forward it to their supervisor for action. Alternatively, contact the Privacy Officer, PNHQ for advice.
	Classified	Urgently refer it to a legal adviser or to the Chief Legal Adviser, PNHQ. (Classified information must be declassified before it can be released.)
	From a Police file currently held by a crown solicitor	Forward it to the O/C case of that file.
Held by, or more closely connected with the functions of, another agency	Transfer the request to that agency within 10 working days.	

Transferring a request

When you transfer a request to another agency, you must:

- transfer it within 10 working days of receiving it, and
- advise the requester that you have done so (s 39 Privacy Act). Irrespective of how the request was made, advise the requester in writing.

See [sample transfer letters](#).

Criminal conviction histories

A request for a criminal conviction history should be transferred to the Privacy Officer, Ministry of Justice. See also [What is held on the Ministry of Justice system](#).

Delay in making decision about request

If you cannot communicate the decision about the request within 20 working days, [notify an extension](#) and send a brief acknowledgement letter to the requester indicating when the information or a decision will be available.

What to do if you decide to provide requested information

If, after considering the request for information, you decide to provide it, follow these steps.

Step	Action
1	Use sample letters as a guide for responding to a request for personal information when nothing is withheld or when some information is withheld . These letters cover the requirement to tell the requester that they are entitled to request correction of any information they consider is incorrect.
2	Provide the information in the manner specified by the requester. This may be by: <ul style="list-style-type: none">• allowing the requester to inspect it• providing a copy of it• allowing the requester to hear or view audio or videotape recordings• supplying transcripts• providing an oral summary of the information. In general, release information from manual files in the form of a photocopy, and information from computer systems in the form of a print out.
3	Note: You cannot charge individuals when you provide information about themselves.
4	Keep a file copy of the information provided to the individual.
5	If you decide to withhold some information keep a copy of what was withheld, what was disclosed and copies of all correspondence exchanged.
6	Job sheet what you have done to respond to the request. This process becomes important if a subsequent complaint is made to the Privacy Commissioner about Police's response.

Requests for correction of information held

Follow these steps when a request for correction of information held is received.

Step	Action
1	Forward it to the person who dealt with the original information request.
2	If the information alleged to be incorrect is factual, e.g. date of birth, address or identity – verify the accuracy of the information and, if it is wrong, correct it and advise the person who requested the correction and any other person the incorrect information may have been provided to.

3	<p>If the information alleged to be incorrect is not factual but a matter of opinion or an allegation, e.g. a complainant's allegation or a witness' assessment that an alleged offender appeared agitated – do not make the correction.</p> <p>Advise the requester that they are entitled to submit a statement of correction detailing the correction requested and containing any other information they wish to include.</p>
4	<p>If the requester supplies a statement of correction, attach it to the file so that it will always be read with the disputed information and advise the requester accordingly. Advise any other people or agencies that received the requester's information of the statement.</p>

RELEASED UNDER THE OFFICIAL INFORMATION ACT

When to withhold information from individuals

Introduction

When you have identified what information has been requested, you must consider whether there are any reasons why the requester should not receive all the information requested.

This section covers:

- the grounds for withholding information
- what you tell the requester about your decision to withhold it
- how you inform them of your decision.

Grounds for withholding information

The primary reasons for withholding information about the individual requesting it are listed in sections [27](#) to [29](#) of the Privacy Act 1993.

Information can only be withheld from the requester if Police have good reasons to believe that a withholding ground applies. The withholding grounds relevant to Police follow.

Prejudicing the maintenance of the law

Do not disclose information that would be likely to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial (s [27\(1\)\(c\)](#)).

This withholding ground applies to most of the information Police hold, but particularly information that:

- is part of an ongoing investigation
- discloses how Police do certain aspects of its job
- identifies an informant, or
- is provided by a witness or complainant and that, if disclosed, would deter the witness from providing information to Police in future.

Endangering the safety of any person

Do not disclose information that would be likely to endanger the safety of any individual (s [27\(1\)\(d\)](#)). "Would be likely" means there must be a distinct or significant possibility of the harm occurring.

The safety risk might relate to the individual concerned, staff members, families or other people. There must be evidence of a threat having been made against another person that Police believe could be carried out if the requester receives the information requested.

Disclosing the affairs of another person

Do not disclose information that would be likely to involve the unwarranted disclosure of the affairs of another individual or of a deceased individual (s [29\(1\)\(a\)](#)).

The right of access is limited to personal information about the requester, but sometimes that information is inextricably linked with information about another person. When you have "mixed" information and cannot separate out the information about other people, you have to decide whether releasing the information would involve the unwarranted disclosure of the affairs of another person.

Consider the

- nature and sensitivity of the information
- nature of the relationship between the requester and the other person
- likely reaction of the other person to the disclosure
- other person's views about giving access.

Information is not readily retrievable, does not exist or cannot be found

If the information requested is not readily retrievable, does not exist or cannot be found, you may refuse the request ([s 29\(2\)\(a\) & \(b\)](#)). However, undertake a thorough search before refusing the request.

You must consider:

- what steps have been taken to locate the information
- whether the file has been traced
- whether checks have been made with all people who previously had the file
- whether the information is likely to have been destroyed
- whether Police ever held the information sought.

Also ask the requester if they can clarify their request or give more details. Sometimes people believe Police hold a file on them, but in reality there never was one.

Breaching a promise of confidentiality to person supplying information

Section [29\(1\)\(b\)](#) provides a withholding ground, but it is very difficult to satisfy and usually will not apply to any situation faced by Police except in employment matters.

Other grounds

You can also withhold information if:

- the request is for a legal opinion or legal advice ([s 29\(1\)\(f\)](#)).
- the information requested is not held by Police and you have no grounds for believing it is held by another agency or connected more closely with the functions or activities of another agency ([s 29\(2\)\(c\)](#)).

Classified or confidential information

Classified information cannot be withheld solely on the basis of its security classification or endorsement mark. Urgently refer classified information to a legal adviser or the Chief Legal Adviser, PNHQ.

The ability to withhold information that someone says is confidential is very limited. Stating that information was provided in confidence is not sufficient to enable it to be withheld on that basis.

A valid withholding ground for classified or confidential information is found in section [27\(1\)\(c\)](#).

Note: Follow the procedures in the [Electronic redaction](#) chapter when part(s) of information provided electronically is withheld. These procedures ensure the information blanked out cannot be restored or the document modified by the recipient. (See also the procedures for [Maintaining an electronic disclosure file](#) in the Criminal disclosure chapter and apply where applicable).

If request relates to current investigation and trial

Obligations under the [Criminal Disclosure Act 2008](#) begin with the commencement of proceedings and continue for as long as information related to the proceedings is held by Police. All requests for information that is covered by sections [12](#) and [13](#) of the CDA and that is "relevant" to the matter before the Court must be considered under the CDA. (For further information, refer to the [Criminal disclosure](#) Police Manual chapter, including the procedures for electronic criminal disclosure).

After the trial criminal disclosure Act still applies

The Criminal Disclosure Act will still apply to requests for information that relate to the court proceedings. The grounds available for withholding information during court proceedings may still apply after the trial has concluded, such as withholding information to protect the privacy of witnesses and victims.

If a request is made prior to the commencement of proceedings or does not relate to criminal proceedings, the information sought is not covered by the CDA and the Privacy Act 1993 and the Official Information Act 1982 will apply.

For further information, see the [Overview of disclosure under the Criminal Disclosure Act](#) in the Criminal disclosure Police Manual chapter.

What to tell the requester when information is withheld

If any information sought is withheld, inform the requester of:

- the fact that the information is being withheld
- the grounds on which the decision to withhold has been made
- their right to complain to the Privacy Commissioner if they are not satisfied with the decision.

Irrespective of how the request was made, inform the requester in writing.

Sample letters

Use sample letters as a guide for responding to a request for personal information when [nothing is withheld](#) or when [some information is withheld](#).

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Requests from individuals for non-personal (official) or third party information

Introduction

This section explains the legislation and procedures relating to responding to requests from people for information:

- that is not personal in nature (e.g. information from the Police Manual)
- about third parties (e.g. a request from one family member for information about another).

These requests are governed by the Official Information Act 1982. For more information on this Act, see [Disclosure under the Official Information Act 1982](#).

How to action the request

Follow this procedure to action the request.

Step	Action	
1	Ensure you have the name and address of the requester. If you don't, file the request as "unknown".	
2	Make a file for the request. If the request has been made orally, job sheet it.	
3	Enter it in Doc-loc case of NIA.	
4	Code the file 2Z.	
5	Identify what information has been requested and consider whether the requester should be charged for the information .	
	Note that you are required to give reasonable assistance to the person requesting the information (s13).	
	If the information requested is...	Then...
	Not specific enough to enable the information to be identified	Request clarification from the requester. See sample letter .
	Held on NIA	Forward the request to the district Co-ordinator.
	In any other paper file	Forward it to the O/C case of that file. (If the O/C case cannot be found, has left Police or is unable to deal with the request, forward it to their supervisor for action. Alternatively contact the Police Privacy Office, PNHQ for advice.)
	Classified	Urgently refer it to a legal adviser or to the Chief Legal Adviser, PNHQ. (Classified information must be declassified before it is released.)
From a Police file currently held by a crown solicitor	Forward it to the O/C case of that file.	
Held by, or more closely connected with the functions of, another agency	Transfer the request to that agency.	
6	If there is likely to be a delay in responding to the request, notify an extension within 20 working days.	

What to do if you decide to disclose

Follow these steps if, after considering the request, you decide to disclose the information.

Step	Action
1	<p>Provide the information in the manner preferred or specified by the requester. If they gave no directions, release information from manual files in the form of a photocopy, and information from computer systems in the form of a print out.</p> <p>Follow the procedures in the Electronic redaction chapter when part(s) of information provided electronically is withheld. These procedures ensure the information blanked out cannot be restored or the document modified by the recipient.</p>
2	<p>Keep on the file a copy of:</p> <ul style="list-style-type: none">• the information provided• any information that was withheld• all correspondence exchanged.
3	<p>Job sheet what you have done to respond to the request. This process becomes important if a subsequent complaint is made to the Ombudsmen about Police's response.</p>

RELEASED UNDER THE OFFICIAL INFORMATION ACT

When to withhold non-personal (official) or third party information

Introduction

This section:

- covers the grounds for withholding official information or information about someone other than the requester
- explains what you tell the requester about your decision to withhold the information, and how you inform them of your decision.

Grounds for withholding information

The grounds for withholding official information or information about someone other than the requester are in sections [6](#), [9](#) and [18](#) of the Official Information Act, and are similar to the grounds under the Privacy Act 1993.

Main provisions relevant for Police

This table outlines the most relevant withholding provisions in the Official Information Act 1982 for Police.

Section	Refuse the request if disclosure would be likely to...
s6(c)	prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial
s6(d)	endanger the safety of any person.
	Refuse the request if it is necessary to...
s9(2)(a)	protect the privacy of natural persons, including that of deceased natural persons
s9(2)(ba)(i)	protect information that is subject to an obligation of confidence, if the release of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied
s9(2)(f)(iv)	maintain constitutional conventions, which protect the confidentiality of advice tendered by Ministers of the Crown and officials
s9(2)(g)	maintain the effective conduct of public affairs through: <ul style="list-style-type: none"> • the free and frank expression of opinions by, between or to Ministers of the Crown, members of an organisation, or officers and employees of any Department or organisation in the course of their duty, or • the protection of Ministers of the Crown, members of organisations, officers and employees from improper pressure or harassment
s 9(2)(h)	maintain legal professional privilege.
Note: If you want to rely on any withholding grounds in section 9, you must consider the public interest in releasing the information.	

Other grounds

This table outlines other grounds for withholding information which may apply.

Section	A request can also be refused if...
s 18(c)	making the information available would constitute contempt of court
s 18(d)	the information requested is or will soon be publicly available

s 18(e)	<p>the document alleged to contain the information requested does not exist or cannot be found</p> <p>You must first consider whether consulting the requester would assist them to make the request in a form that would remove the reason for the refusal (s18B).</p>
s 18(f)	<p>the information requested cannot be made available without substantial collation or research</p> <p>You must first consider whether:</p> <ul style="list-style-type: none"> • fixing a charge or extending the response time would enable the request to be granted (you can treat 2 or more requests as one if they are about similar topics or were received simultaneously or in short succession (s 18A)) • consulting the requester would assist them to make the request in a form that would remove the reason for the refusal (s18B).
s 18(h)	<p>The request is frivolous or vexatious or that the information requested is trivial.</p>

Privacy versus public interest (section 9(2))

When assessing whether to withhold a request under section 9(2) of the Act, you must consider whether the public interest in releasing the information is sufficient to outweigh the privacy interest associated with the information.

Considering the privacy interest

Consider:

- how intimate, personal or private the information is. For example, the privacy interest associated with an address is not as high as that associated with the details of a rape victim's medical examination
- whether or not the requester already knows the information. If the requester is seeking confirmation of something they already know the privacy interest tends to be less
- whether the person the information is about, agrees to their information being released to the requester
- whether disclosure is consistent with [Privacy Principle 11](#) in section 6 of the Privacy Act. If disclosure would be consistent with this principle, the privacy interest is likely to be less. The most important features of the principle are found in 11(e)(i), 11(e)(iv) and 11(f). These are discussed in [Voluntary disclosure by Police](#). The privacy interest is also diminished if the source of the information is a publicly available document such as a newspaper (principle 11(b)).

If the privacy interest outweighs the public interest, decline the request under section [9\(2\)\(a\)](#) of the Official Information Act 1982.

Considering the public interest

Public interest does not mean "what is of interest to the public". In *British Steel Corporation v Granada Television Ltd* [1981] 1 All ER 417, 455, Wilberforce LJ stated: "There is a wide difference between what is interesting to the public and what is in the public interest to make known."

Consider whether disclosure will benefit only one individual or the whole community. For example, will it:

- help parents to keep their children safe

- help to make the roads safe to drive on
- ensure that New Zealand's horticulture industry is protected from disease?

If the public interest outweighs the privacy interest, release the information.

Third party requests

Take special care when making decisions on requests for personal information about a third party. Common requesters in this category are parents of adult children, family members, lawyers and reporters (see also [Requests from media](#)).

In general, do not disclose third party information unless:

- you are authorised or required by a specific statute to disclose it
- the third party has provided consent in writing, or
- the [public interest](#) in meeting the request is sufficient to outweigh the privacy interest associated with the information.

If none of these apply, decline the request under section 9(2)(a) of the Official Information Act 1982.

Classified information

Classified information cannot be withheld solely on the basis of its security classification or endorsement mark. Urgently refer classified information to a legal adviser or the Chief Legal Adviser, PNHQ. If the information is withheld, the reason given must be [one of those specified](#) in the Official Information Act.

If request relates to current investigation

During investigation phase and prior to any Court proceedings
Withhold under section 6(c) of the Official Information Act 1982.

From conclusion of investigation until end of trial

Obligations under the [Criminal Disclosure Act 2008](#) begin with the commencement of proceedings and continue for as long as information related to the proceedings is held by Police. All requests for information that is covered by sections [12](#) and [13](#) of the CDA and that is "relevant" to the matter before the Court must be considered under the CDA.

After the trial Criminal Disclosure Act still applies

The Criminal Disclosure Act will still apply to requests for information that relate to the court proceedings. The grounds available for withholding information during court proceedings may still apply after the trial has concluded, such as withholding information to protect the privacy of witnesses and victims.

If a request is made prior to the commencement of proceedings or does not relate to criminal proceedings, the information sought is not covered by the CDA and the Privacy Act 1993 and the Official Information Act 1982 will apply.

Refer to the [Criminal disclosure](#) chapter in the Police Manual for detailed information about criminal disclosure and the key duties and responsibilities for Police employees.

Making requests for information that has been before a court

A request for information that has been before the court is subject to the [Criminal Procedure \(Access to Court Documents\) Rules 2009](#). The requester must therefore make their request to the relevant court. If the request relates to Police information, Police will be consulted by the court prior to the release of the information.

Advising the requester when information is withheld

If any information sought is withheld, inform the requester in writing of:

- the fact that the information is being withheld
- the grounds on which the decision to withhold has been made
- their right to complain to the Office of the Ombudsmen if they are not satisfied with the decision.

See sample letters responding to a request for non-personal information when [some](#) or [all information has been withheld](#), or when the [request is for both personal and non-personal information](#).

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Requests from government departments or agencies

Introduction

This section covers what you should consider when you receive a request for information from a government department or government agency.

Is there a specific statutory power to require the information?

If the person asking for information works for a government department, they may have a [specific statutory power](#) requiring you to provide the information.

If there is no specific statutory power requiring the information to be provided, consider the request in the same way as you consider other [third party requests](#) under the Official Information Act.

Is the request for criminal records?

Partner agencies such as Internal Affairs, the Fire Service, Fisheries, ACC and MSD wanting information about criminal records must be referred to the Ministry of Justice.

Before disclosing an individual's criminal record or information about it, you must consider the Criminal Records (Clean Slate) Act 2004 and whether the agency requesting the information is a law enforcement agency as defined in section 4 of the Act. For further information on the clean slate scheme, see [Criminal Records \(Clean Slate\) Act 2004](#).

Charging for providing the information

You should not charge a government department for information provided under the Official Information Act.

Paperwork

Create a file as you would for any other request.

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Requests from media

Introduction

Every day, Police come under immense media pressure to release information about crimes, incidents and emergencies and the people involved in them.

This section provides guidance to help you release all appropriate personal information to the media and, at the same time, meet the requirements of the Privacy Act or the Official Information Act.

Information about Police activities

It is in the public interest to give the media access to information about Police activities if that information:

- will not prejudice an investigation or trial, and
- does not infringe against a person's rights under the Privacy Act.

Withholding information does not promote Police accountability or encourage fair and balanced reporting. In addition, the Police must frequently disclose personal information in order to obtain public assistance in supporting victims and solving crimes.

What you may release

You may release:

- names of people:
 - injured or killed in incidents, provided the next-of-kin have been informed
 - sought in land and marine search and rescue operations
- name of a victim of a crime provided:
 - the victim consents, or
 - where the victim is dead, cannot be found or is otherwise unable to give consent, the next-of-kin consents, or
 - in the opinion of the O/C case, disclosure is necessary to advance the investigation
- details of money or other property stolen in the course of armed robberies, burglaries and theft, if the victim consents
- photographs of wanted people provided a warrant for the arrest of the person exists or there is sufficient evidence available to arrest the person.
- descriptions of dangerous escaped prisoners, or those unlawfully at large.

Refer to the [Public notification of offender's details](#) chapter in the Police Manual for information about the circumstances in which Police may proactively release information about an offender's identity to individuals and/or communities other than in response to requests for information under the Official Information Act 1982.

Allowing media to witness and record Police activities

In certain circumstances you may permit film crews, photographers and journalists to witness and record Police activities. However, you must obtain approval from a supervisor holding the level of position of Superintendent or above and then seek approval from Media Services and Legal Section, PNHQ. Media Services and Legal Section will ensure a contract is provided in an approved form.

Requests for names of Police employees

A request for the name of a Police employee should be considered under the Official Information Act.

In general, the names of Police employees acting in the course of their duties have to be released. The employee should be informed before their name is disclosed to the media that the disclosure is intended and their views sought if necessary.

In exceptional cases, however, such as where disclosure is likely to cause hardship or reveal information about an employee's personal life and family, the employee's name may be withheld under section 9(2)(a) of the Official Information Act.

The requester can have the decision reviewed by an Ombudsman.

Further information

For further information on dealing with the media, see the Media Relations chapter (particularly the [Releasing information](#) topic) in the Police Manual.

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Requests for information held on NIA or Police-related systems

Introduction

This section:

- explains the types of information held on the National Intelligence Application (NIA) and on Ministry of Justice and New Zealand Transport Agency systems, which Police access through NIA via the Fifth Schedule of the Privacy Act
- outlines who is responsible for responding to requests for that information.

What is held on NIA

Police are responsible for responding to requests for the following information held on NIA:

- identity information
- firearms licence details
- charge history
- overseas convictions
- document locator (doc-loc) records.

Doc-loc is the Police national file indexing system for incidents and offences reported to the Police. It is not a Police intelligence network. A person's name could be in the files index if they have reported a burglary or some other offence or incident. The brief file index reference does not confirm whether an offence has been committed or prove any person nominated as a suspect is guilty of an offence. The index does not hold court conviction details.

Responding to requests for NIA information

Refer to Access to and disclosure of information held by Police in the [Vetting, references and certificates](#) Police Manual chapter for further information about responding to requests for information from NIA.

Direct people with queries about information held in NIA to:

Liaison Officer
Licensing and Vetting Service Centre
P.O. Box 3017
Wellington
Phone: (04) 474 9499 ext 44013
Fax: (04) 499 1065

What is held on the Ministry of Justice system

The Ministry of Justice computer system holds the details of:

- criminal convictions in New Zealand courts
- custody supervision
- fines enforcement
- case monitoring data.

Queries about this type of information should be referred to the nearest District Court or to:

Privacy Officer
Ministry of Justice
P.O. Box 180
Wellington 6140

Phone: (04) 918 8800

Fax: (04) 918 8820

What is held on the New Zealand Transport Agency system

The New Zealand Transport Agency computer system holds the details of:

- driver licences
- motor vehicle registration
- demerit points
- traffic conviction histories.

Queries about this type of information should be referred to:

Driver Licensing

Transport Registry Centre

New Zealand Transport Agency

Private Bag 11777

Manawatu Mail Centre

Palmerston North 4442

Phone: 0800 108 809 (motor vehicle registrations) or 0800 822 422 (driver licensing)

Fax: (06) 350 2347

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Other common requests

Introduction

This section explains what you may disclose when you receive a request for:

- information about the nature of your enquiries to locate a person
- a copy of a traffic accident report
- diversion-related information.

Enquiries to locate a person

When making enquiries to locate someone (for any reason), the only information you can disclose is the fact that you are looking for the person. You cannot disclose information about the nature of the enquiry.

Case law

In a case heard by the Complaints Review Tribunal (*Mitchell v Police*), an officer was seeking to serve a notice on a person disqualified indefinitely from driving. He made enquiries at the address of the offender's parents. In response to an enquiry by the offender's mother, the officer advised that the purpose of his enquiry was to serve a notice under section 30A of the Transport Act 1962 disqualifying the offender indefinitely from driving.

The tribunal concluded that the disclosure constituted a breach of Privacy Principle 11. However the tribunal also concluded that this disclosure did not constitute an interference with the plaintiff's privacy because she could not demonstrate sufficient "harm" as required by the Privacy Act.

Traffic accident reports

A traffic accident report is defined in section 211 Land Transport Act 1998 as " ... a written report prepared by an enforcement officer who is a Police employee that relates to an investigation of a traffic accident".

Any person is entitled to seek a copy of a traffic accident report. However, as with any other material, the reports may be withheld or edited as the Privacy Act and Official Information Act allow.

Fees for traffic accident reports

A fee of \$55 is charged for the supply of the report to insurance companies. Police do not charge individuals for a copy of the report if they were involved in the traffic crash.

Diversion-related requests

Do not disclose diversion details to third parties, even with the consent of the person concerned. Disclosing such information would undermine the incentive for people to participate in diversion programmes. Such requests should, in general, be refused under sections [6\(c\)](#) and [9\(2\)\(a\)](#) of the Official Information Act.

If a person seeks diversion information about themselves, process the request under the Privacy Act 1993 and provide the information unless there are good reasons not to.

Voluntary disclosure by Police

Care needed before making voluntary disclosure

Disclosing personal information in the absence of a request can constitute an interference with the individual's privacy and lead to civil action. The Human Rights Review Tribunal has the power to award damages of up to \$200,000 in such cases. It is therefore important to consult with the Police Privacy Office, PNHQ, before making any voluntary disclosure.

Information Privacy Principle 11

[Information Privacy Principle \(IPP\) 11](#) (s6 Privacy Act 1993) must be applied when deciding whether to disclose. This privacy principle prohibits the disclosure of personal information unless you believe on reasonable grounds that the disclosure is necessary and is permitted by one of the listed exceptions.

The exceptions most relevant for Police are contained in IPP11(a), 11(e)(i), 11(e)(iv) and 11(f).

Information obtained for the purpose of disclosure (IPP11(a))

If the information was obtained specifically to pass on to a third party, or if such onward transmission is directly related to the purpose for which the information was obtained, the disclosure to that third party is sanctioned by principle 11(a).

Example

One of the purposes Police collect information about the victim and the offender in a family violence incident is to assist the parties involved by disclosing information to another agency that provides support and assistance, e.g. to Women's Refuge or Victim Support. As it was one of the purposes of collection, disclosure of FVIR information is permitted by principle 11(a).

Similarly, some information collected during enquiries into air crashes, traffic accidents, or deaths in workplaces may be conveyed to the CAA, LTSA or OSH respectively.

Maintenance of the law (IPP 11(e)(i))

There are three key elements of principle 11(e)(i). You must:

- identify a prejudice to the maintenance of the law
- believe on reasonable grounds that such prejudice will occur, and
- that the prejudice will occur if the disclosure is not made, i.e. the disclosure is necessary.

Elements of IPP 11(e)(i)

Element	Explanation
Prejudice to the maintenance of the law	First, it is essential to be able to identify a prejudice to the maintenance of the law, i.e. state in what way the maintenance of the law would be prejudiced if the information were not disclosed - for example, an offence will be committed, an investigation will be prolonged or frustrated or a witness will not assist with enquiries.

Reasonable grounds to believe prejudice will occur	<p>Second, you must believe on reasonable grounds that such prejudice will occur, i.e. you must be able to list facts supporting the probability of the prejudice occurring. For example, if a convicted sex offender has been employed in a school, reasonable grounds to believe that he will re-offend may include the fact that:</p> <ul style="list-style-type: none"> • he has a series of sex convictions, particularly recent ones • his previous offending occurred in a school environment • there have been reports of him handing out lollies to children or offering them rides home • he did not successfully complete any rehabilitation programmes in prison and has not acknowledged his wrongdoing • he has the opportunity to be alone with children and therefore has the opportunity to offend.
The disclosure must be necessary	<p>Third, that the prejudice to the maintenance of the law will occur if the disclosure is not made. In effect, this means that:</p> <ul style="list-style-type: none"> • It must be the last resort. Ask yourself: "Is there any way to prevent the identified prejudice to the maintenance of the law other than by disclosing the information at issue?" If the answer is 'no', the disclosure is necessary. Otherwise, it is not. • It must be made only to a person(s) who can prevent the identified prejudice to the maintenance of the law. For example, disclosing to a school principal that one of his staff is a convicted sex offender would enable the principal to take steps to ensure that the offender does not have any un-supervised contact with children and not re-offend. But there would be no purpose in advising the media. • Only sufficient information to ensure the identified prejudice is prevented should be disclosed. Superfluous detail should not be disclosed.

For further information about voluntarily disclosing information in the absence of a request, refer to the [Public notification of offender's details](#) chapter in the Police Manual.

Necessary for the conduct of legal proceedings (IPP 11(e)(iv))

Personal information may be disclosed to third parties if you have reasonable grounds to believe that the disclosure is necessary for the conduct of proceedings before any court or tribunal. This includes proceedings that have been commenced or are reasonably in contemplation.

For example, if the Police have on file evidence that directly and irrefutably conflicts with an affidavit sworn and filed by a party to civil proceedings, the evidence must be brought to the court's attention.

Threats to health and safety (IPP 11(f))

There are three key elements of principle 11(f). You must:

- identify a serious threat to public health or safety, or
- identify a threat to the life or health of at least one individual, and

- believe on reasonable grounds that disclosure is necessary to prevent or lessen the threat.

Elements of IPP 11(f)

Element	Explanation
Threat to health or safety	First, it is essential to identify a threat to the health or safety of at least one individual. The threat must be "serious" as defined in section 2(1) - i.e. having regard to the likelihood of the threat being realised, the severity of the consequences if it is, and when it might happen. For example, where you believe a person is at risk of harming themselves or others either soon or in the foreseeable future, you may be justified in disclosing that to someone who may be able to prevent it.
Reasonable grounds to believe threat will be prevented or lessened	Second, there must be reasonable grounds for believing that disclosure will prevent or lessen the identified threat. For example, if the Police inform the public that a dangerous prisoner has escaped, the public can take precautions to secure their homes and cars and keep their families safe. The fact that people on their guard are less at risk than they would otherwise be provides a reasonable ground for Police to believe that disclosure of the escape would prevent or lessen the threat to the public.
The disclosure must be necessary	Third, the disclosure must be necessary. In effect, this means that: <ul style="list-style-type: none"> • It must be the last resort. Ask yourself: "Is there any way to prevent or alleviate the identified threat other than by disclosing the information?" If the answer is 'no', the disclosure is necessary. Otherwise, it is not. • It must be made only to a person(s) who can prevent or lessen the identified threat. • Only sufficient information to ensure the identified threat is prevented or lessened should be disclosed. Do not disclose superfluous detail.

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Criminal disclosure

Prosecution's duty to disclose

Once a person has been charged, the prosecution is obliged to disclose its case to the defence in accordance with the [Criminal Disclosure Act 2008](#). Failure to do so could have serious consequences for Police including:

- evidence being excluded
- the case being dismissed (under the court's inherent jurisdiction) or
- a retrial ordered.

Refer to the [Criminal disclosure](#) chapter in the Police Manual for detailed information about criminal disclosure and the key duties and responsibilities for Police staff.

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Sample letters for responding to requests

Purpose

Use these sample letters as a guide to responding to requests for information:

- [Request for information held by Police](#) (word doc, 44 KB).
- [Insufficiently detailed request](#) (word doc, 31 KB).
- [Transfer letter to requester](#) (word doc, 31 KB).
- [Transfer letter to other agency](#) (word doc, 31 KB).
- [Notification of extension](#) (word doc, 32 KB).
- [Responses to requests for personal information: Nothing withheld](#) (word doc, 30 KB).
- [Responses to requests for personal information: Some information withheld](#) (word doc, 31 KB).
- [Responses to requests for personal information: All information withheld](#) (word doc, 30 KB).
- [Responses to requests for non-personal information: Nothing withheld](#) (word doc, 30 KB).
- [Responses to requests for non-personal information: Some information withheld](#) (word doc, 30 KB).
- [Responses to requests for non-personal information: All information withheld](#) (word doc, KB).
- [Responses to requests for both personal and non-personal information: Nothing withheld](#) (word doc, 30 KB).
- [Responses to requests for both personal and non-personal information: Some information withheld](#) (word doc, 31 KB).
- [Responses to requests for both personal and non-personal information: All information withheld](#) (word doc, 31 KB).
- [Standard refusal letter s9\(2\)\(a\)](#) (word doc, 32 KB).
- [Letter explaining charges](#) (word doc, 31 KB).

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