

22 April 2026

Nigel Gray
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Ref: OIA 131265

Tēnā koe Nigel

Official Information Act request: Land Transport (Drug Driving) Amendment Bill

Thank you for your email of 24 March 2026 to the Ministry of Justice (the Ministry), requesting information under the Official Information Act 1982 (the Act), regarding the Land Transport (Drug Driving) Amendment Bill (the Bill). Specifically, you requested:

Under the Official Information Act 1982, I request the following information. Each item is discrete and may be answered independently.

1. BORA Analysis and Cabinet Papers

In his 25-010 letter dated 24th March 2026, the Minister of Police, Hon Mark Mitchell, stated that:

“The implications of the regime for BORA protections were considered by Cabinet...”

Accordingly, please provide:

- 1. The full BORA assessment(s) prepared for Cabinet regarding the roadside drug testing regime that became operational on 15 December 2025.*
- 2. Any legal advice, internal or external, relating to whether the roadside drug screening procedure constitutes a “medical procedure” under section 11 of the New Zealand Bill of Rights Act.*
- 3. Any proportionality analysis, risk assessment, or rights-impact evaluation considered by Cabinet or Ministers in relation to this regime.*

2. Evidence for Safety and Scientific Claims

The Minister of Police also stated that: “The DrugWipe 3S has also been used safely in Australia for more than twenty years with no recorded harmful reactions.”

Please provide:

- 4. The evidence, reports, or data sources held by the Ministry of Justice that support this claim.*
- 5. Any scientific validation studies, accuracy assessments, false-positive/false-negative rates, or environmental contamination analyses relating to the DrugWipe 3S that were considered during legislative vetting or BORA analysis.*
- 6. Any internal evaluations comparing the DrugWipe 3S with alternative technologies, where such evaluations informed BORA or legislative assessments.*

3. Operating Procedures and Device Selection Criteria

The Minister of Police further stated that: "...a number of mitigations were introduced... including the development of the operating procedures and the selection of the devices to be used."

Please provide:

- 7. Any operating procedures, device selection criteria, or risk-mitigation documents held or reviewed by the Ministry of Justice during BORA vetting or legislative development.*
- 8. Any risk assessments relating to invasiveness, bodily integrity, or procedural fairness that were considered as part of the Ministry's BORA responsibilities.*

4. Assessment of Alternative Technologies

The Minister of Police also stated that: "The alternative technologies raised are still emerging and are not yet suitable for roadside enforcement..."

Please provide:

- 9. Any documents, evaluations, or advice held by the Ministry of Justice that relate to the assessment of alternative technologies for roadside drug testing.*
- 10. Any comparative assessments between the DrugWipe 3S and alternative technologies that informed BORA or legislative analysis.*

On 8 March 2026, the Ministry transferred parts 4, 5, 6, 9 and 10 to the New Zealand Police (the Police) under section 14(b)(i) of the Act, as the Ministry does not hold the information requested, and under section 14(b)(ii) of the Act, as the information requested more closely relates to the functions of the Police.

On 9 March 2026, you disputed this transfer and requested that the Ministry responds to each part specifically. I note that the Police accepted the transfer and you were happy for them to continue processing those parts of your request.

Before responding to each part of your request, I provide some contextual information around the Ministry's involvement in the testing regime.

Roadside drug driving testing was implemented in several stages:

- The [Land Transport \(Drug Driving\) Amendment Bill](#) was introduced to the House of Representatives on 29 July 2024 and received Royal Assent on 29 March 2025.
- The [Land Transport \(Drug Driving\) Amendment Act 2025 Commencement Order](#) and [2025 Land Transport \(Oral Fluid Samples\) Regulations 2025](#) were made by Order in Council on 10 November 2025.
- The Minister of Police published the [Land Transport \(Approved Oral Fluid Screening Device\) Notice 2025](#) and [Land Transport \(Concentration Level of Listed Qualifying Drugs\) Notice 2025](#) on 11 November 2025.
- The [Land Transport \(Drug Driving\) Amendment Act 2025](#) (Amendment Act), regulations, and notices came into force on 15 December 2025.

The Ministry's roles varied across the different phases of this work. Officials advised the Attorney-General about the Bill's consistency with the New Zealand Bill of Rights Act 1990 (NZBORA), but regulations and other secondary legislation are not vetted by officials.

For Government Bills, officials advise the Attorney-General before Cabinet consideration. The Attorney-General considers officials' advice and forms their own conclusions. Ministers also provide their own view of NZBORA consistency when seeking Cabinet's approval to introduce legislation.

A section 7 report is made when the Attorney-General determines that a Bill limits New Zealanders' rights and freedoms in a way or to an extent that cannot be justified in a free and democratic society. In these cases, the section 7 report is published rather than the advice of officials, and the Attorney-General retains legal professional privilege in respect of unpublished advice.

Each of your requests are responded to, in turn, below.

Please refer to **Table 1** below for the documents in scope of parts 1, 3, 7 and 8 of your request and my decision on their release to you. The information being released are attached to this response as **Appendix 1**. Some information has been withheld or refused under the following provisions of the Act:

- section 9(2)(a) to protect the privacy of natural persons,
- section 9(2)(ba)(i) to protect information subject to an obligation of confidence,
- section 9(2)(h) to maintain legal professional privilege, and
- section 18(d) of the Act as the information is publicly available.

In withholding information under section 9 of the Act, the Ministry has considered the public interest and does not consider that it outweighs withholding the information at this time.

Part 2 of your request is refused under section 18(e) of the Act, as the document(s) alleged to contain the information requested do not exist. The Ministry did not produce or procure any advice on whether the Bill engages s 11 of NZBORA ("the right to refuse to undergo any medical treatment").

The Ministry attempted to transfer part 2 of your request to The Ministry of Transport (MoT) under section 14(b)(i) of the Act, however this was declined. You may wish to contact MoT directly for this information. Contact can be made to: OIA@transport.govt.nz.

Parts 4, 5, 6, 9 and 10 of your request are refused under section 18(e) of the Act, as the document(s) alleged to contain the information requested do not exist.

The Ministry was not involved in the assessment or selection of technology for roadside drug testing. When the Bill was assessed for consistency with NZBORA, the equipment that would be used to carry out the oral fluid screening test was unknown. Therefore, while the Attorney-General's section 7 report considers some of the concerns you have raised, such as device accuracy and invasiveness, it does so in general terms. The Attorney-General also notes where their analysis relies on assumptions or is limited by incomplete information.

The Police undertook the procurement process for the oral fluid testing equipment. In February 2025, the Police issued a request for proposal to find a suitable provider. The Securetec DrugWipe® 3 S was selected and approved through the Land Transport (Approved Oral Fluid Screening Device) Notice 2025 in December 2025.

As the Police accepted transfer of parts 4, 5, 6, 9 and 10 of your request, you will hear from the Police directly, in due course.

Please note that this response, with your personal details removed, may be published on the Ministry's website at: [Official Information Act responses | New Zealand Ministry of Justice](#).

If you are not satisfied with this response, you have the right to make a complaint to the Ombudsman under section 28 of the Act. The Office of the Ombudsman may be contacted by phone on: 0800 802 602, by email at: info@ombudsman.parliament.nz, or via the webform: [Make a complaint \(for members of the public\) | Ombudsman New Zealand](#).

Nāku noa, nā



Kathy Brightwell

General Manager, Civil and Constitutional Policy Group

Table 1: Documents in scope of request

Doc no.	Date	Document type	Title	Decision on release under the Act
1.	28/02/2023	Briefing	Oral Fluid Testing Advice	Withheld in full under s9(2)(h)
2.	19/04/2023	Regulatory Impact Statement	Legislative Amendments to Enable Roadside Oral Fluid Testing	Refused under s18(d) – information publicly available at: RIS: Legislative amendments to enable roadside oral fluid testing
3.	08/05/2024	Cabinet paper	Legislative Amendments to Enable Roadside Oral Fluid Screening Tests	Refused under s18(d) – information publicly available at: Enabling Roadside Oral Fluid Screening Tests Legislative Amendments
4.	18/07/2024	Letter	Letter to Ministry of Justice re Oral Fluid Testing Bill	Withheld in full under ss 9(2)(ba)(i) and 9(2)(h)
5.	19/07/2024	Briefing	Advice on the consistency of the Land Transport (Drug Driving) Amendment Bill with NZBORA	Withheld in full under s9(2)(h)
6.	25/07/2024	Aide memoire	Further information to support your consideration of the Land Transport (Drug Driving) Amendment Bill	Withheld in full under s9(2)(h)
7.	25/07/2024	Cabinet paper	Land Transport (Drug Driving) Amendment Bill: Approval for Introduction	Refused under s18(d) – information publicly available at: Land Transport (Drug Driving) Amendment Bill: Approval for Introduction
8.	26/07/2024	Email	Update to the Minister - NZBORA advice on the Land Transport (Drug Driving) Amendment Bill	Withheld in part under s9(2)(a) and s9(2)(h)
9.	29/07/2024	Report	Report of the Attorney-General under the New Zealand Bill of Rights Act 1990 on the Land Transport (Drug Driving) Amendment Bill	Refused under s18(d) – information publicly available at: Report - Land Transport Drug Driving Amendment Bill