

13 FEB 2017

P Nicholls
fyi-request-5213-6b766a52@requests.fyi.org.nz

Dear P Nicholls

Official Information Act 1982 request

I acknowledge your Official Information Act 1982 (the Act) request of 15 January 2017 requesting information relating to the Criminal Records (Clean Slate) Act 2004.

Criminal Records (Clean Slate) Act 2004

The Criminal Records (Clean Slate) Act 2004 (referred to as the Clean Slate Act) is designed to allow individuals with less serious convictions, who have been conviction-free for at least seven years and who have not been sentenced to imprisonment, to put their past behind them. They are deemed to have no criminal record for the purposes of any question asked of them about their criminal record, and their criminal record will be concealed by the Ministry of Justice and law enforcement agencies.

Effectively, that means an eligible individual may answer a question asked of them about their criminal record by stating that they have no criminal record. Furthermore, if a criminal record check is requested, it will not show any convictions. To be eligible for a "clean slate", a person must have:

- no convictions within the last seven years
- never been sentenced to a custodial sentence (e.g. imprisonment, corrective training, borstal)
- never been ordered by a court during a criminal case to be detained in a hospital due to his/her mental condition instead of being sentenced
- not been convicted of a "specified offence" (e.g. sexual offending against children and young people or the mentally impaired)
- paid in full any fine, reparation or costs ordered by the court in a criminal case and
- never been indefinitely disqualified from driving.

A person meeting the above criteria does not have to apply for a "clean slate". The scheme is automatically applied by the Ministry of Justice when an application is made for a copy of an individual's criminal record. There is no central register or list of the people meeting the criteria at any one time.

A person "loses" eligibility for a "Clean Slate" if they are convicted of a further offence. Assuming they continue to meet other eligibility criteria, they will need to wait a further seven years before being eligible under the Act again. If the person applied for a new criminal record check within those seven years, the record would not only show the person's most recent conviction, but also those convictions that had been previously concealed.

There are some exceptions when individuals' convictions will continue to be disclosed. They are set out in section 19 of the Clean Slate Act. For instance, an eligible person must disclose their conviction(s) if they apply for a position involving the care and protection of a child or young person (for example, a foster parent or a caregiver of children or young people). Additionally, an eligible individual's conviction(s) may be disclosed to allow a law enforcement agency to prevent, detect, investigate or prosecute a crime. There are also employment exceptions, including for judges, positions involving national security, police employees and prison or probation officers.

In June 2014, Parliament passed the Vulnerable Children Act 2014 which made further changes to the clean slate regime. Section 31 of the Vulnerable Children Act prevents individuals with convictions for specified offences from working in the core children's workforce. This section states that the Clean Slate Act cannot be used to conceal a conviction for a specified offence when a safety check is taking place within the core children's workforce. Specified offences are listed in Schedule 2 of the Vulnerable Children Act.

New Zealand's law cannot bind another country, so the clean slate regime does not apply to any questions about criminal convictions asked by another country for the purposes of granting visas. If a person would be eligible for a clean slate in New Zealand, they must disclose their convictions if asked by the country they are intending to visit.

Copies of criminal records

The Ministry of Justice's Criminal Records Unit processes requests from members of the public for a copy of their criminal record under the Privacy Act 1993. Third parties can request a copy of an individual's criminal record, but only with the individual's consent. The Unit processes more than 460,000 requests every year. There is more information about this process on our website here: <https://www.justice.govt.nz/criminal-records/>

Responses to these requests are compiled from the New Zealand Courts' case management system (CMS), which holds judicial information that is not subject to the Official Information Act. The Ministry can access the CMS in order to process a request for a criminal record. When it does so it applies the clean slate criteria.

The Ministry's criminal record service is not a vetting service. The Police run a separate vetting service and information about it is on their website here: <http://www.police.govt.nz/advice/businesses-and-organisations/vetting>

Response to your request

You have asked for the number of convictions hidden by the Clean Slate Act, a breakdown of each conviction and the number of people who currently have convictions hidden by the Act.

The Clean Slate Act came into force on 29 November 2004. As at 9/01/2017, 158,941 people have requested a copy of their criminal record and were eligible to have their convictions concealed under the Act. Please see the following table for the number of convictions currently concealed under the Criminal Records Act 2004, broken down by offence type.

ANZSOC division offence type	Count
Abduction, harassment and other offences against the person	3,895
Acts intended to cause injury	45,849
Dangerous or negligent acts endangering persons	139,722
Fraud, deception and related offences	74,566
Homicide and related offences	1,071
Illicit drug offences	49,152
Inadequate data provided	587
Miscellaneous offences	15,296
Offences against justice procedures, government security and government operations	50,049
Prohibited and regulated weapons and explosives offences	8,856
Property damage and environmental pollution	25,974
Public order offences	70,600
Robbery, extortion and related offences	693
Sexual assault and related offences	1,943
Theft and related offences	74,702
Traffic and vehicle regulatory offences	237,056
Unlawful entry with intent/burglary, break and enter	17,288
Grand Total	817,299

The data provided includes offences in the Australian and New Zealand Standard Offence Classification (ANZSOC) groups. More information about ANZSOC can be found at the following link: stats.govt.nz/tools_and_services/nzdotstat/tables-by-subject/criminal-conviction-and-sentencing-tables-calendar-year/info-about-the-data/offence-categories

Please note homicide and related offences includes manslaughter and driving causing death.

If you require any clarification of the information contained in this response please contact Antony Paltridge, Team Leader, Media and External Relations, at media@justice.govt.nz or call (04) 918 8980 or 027 689 0667.

Yours sincerely

PP Jacquelyn Shannon
Group Manager, Courts and Tribunals, Regional Service Delivery

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