

8 December 2017

Ross Francis  
[fyi-request-6831-161930da@requests.fyi.org.nz](mailto:fyi-request-6831-161930da@requests.fyi.org.nz)

Dear Mr Francis

**Official Information Act 1982 request: Briefing for New Government**

I refer to your FYI request of 12 November 2017 requesting the following information under the Official Information Act 1982 ("the Act"):

*"Given that it is Government policy to introduce a Criminal Cases Review Commission (CCRC), which if implemented may improve public confidence in the criminal justice system, have Ministry officials identified any benefits that might emanate from introduction of a CCRC? If so, what possible benefits have been identified by officials including any information about possible benefits that is held in the minds of officials [sic]?"*

*Please provide me with the Ministry's briefing to the new Government, including any information or advice supplied to the new Government about the wider criminal justice system. Please also provide all correspondence between the new Justice Minister and officials about any matters pertaining to the wider criminal justice system.*

*In an email Jeff Orr sent to Kevin Kelly on 8 May 2009, Mr Orr advised that he had asked the High Court about the destruction of videotaped interviews pertaining to the Peter Ellis case. Please provide me with all records of communication between the High Court and the Justice Ministry about the destruction of these videotaped interviews.*

*In Mr Orr's response to me dated 19 October 2017, I was advised that when a Commission of Inquiry into the Ellis case was being considered in 2009, the Ministry learnt that the Christchurch High Court apparently held copies of the complainants' videotaped interviews. Since 2009, has the Justice Ministry made any inquiries of the Christchurch High Court about the existence of these videotaped interviews? If so, please provide me with all records relating to this question."*

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

1. *Given that it is Government policy to introduce a Criminal Cases Review Commission (CCRC), which if implemented may improve public confidence in the criminal justice system, have Ministry officials identified*

*any benefits that might emanate from introduction of a CCRC? If so, what possible benefits have been identified by officials including any information about possible benefits that is held in the minds of officials [sic]?*

We have previously provided you with information regarding the possible benefits of establishing an independent tribunal to investigate potential miscarriages of justice in our letter to you of 28 May 2008 responding to your request dated 6 December 2007.

As we have previously said in our letter to you on 14 July 2017 (responding to your request of 19 June 2017), the Ministry has provided you with all the information it holds in relation to the “potential benefits” or “possible benefits” of establishing an independent tribunal to investigate potential miscarriages of justice, a concept that includes the possibility of a Criminal Cases Review Commission. As such, I am refusing this part of your request under s 18(h) of the Act on the grounds that your request for this information is vexatious.

*2. Please provide me with the Ministry’s briefing to the new Government, including any information or advice supplied to the new Government about the wider criminal justice system.*

The briefing to the incoming Minister of Justice will be released on the Beehive website in the coming weeks. I am therefore refusing this part of your request under s 18(d) of the Act on the basis that the information requested is or will soon be publicly available.

*3. Please also provide all correspondence between the new Justice Minister and officials about any matters pertaining to the wider criminal justice system.*

Given the wide-ranging nature of the Ministry’s work in the criminal justice system, this part of your request necessitates substantial work collating recent correspondence between the Minister of Justice and Ministry officials on “any matters pertaining to the wider criminal justice system”. Recent correspondence has included matters such as family and sexual violence work, and implementation of the anti-money laundering and countering financing of terrorism regime.

Accordingly, please refine this aspect of your request to identify the specific information about the criminal justice system you seek, for example, the Royal prerogative of mercy or the Criminal Cases Review Commission.

*4. In an email Jeff Orr sent to Kevin Kelly on 8 May 2009, Mr Orr advised that he had asked the High Court about the destruction of videotaped interviews pertaining to the Peter Ellis case. Please provide me with all records of communication between the High Court and the Justice Ministry about the destruction of these videotaped interviews.*

Schedule A sets out the document which falls within the scope of this part of your request together with my decision on release. The enclosed document is

an email forwarded from the Christchurch High Court registry to the Ministry regarding the videotaped interviews of children in Mr Ellis's case.

5. *In Mr Orr's response to me dated 19 October 2017, I was advised that when a Commission of Inquiry into the Ellis case was being considered in 2009, the Ministry learnt that the Christchurch High Court apparently held copies of the complainants' videotaped interviews. Since 2009, has the Justice Ministry made any inquiries of the Christchurch High Court about the existence of these videotaped interviews? If so, please provide me with all records relating to this question.*

Since 2009, the Ministry has not made any enquiries of the Christchurch High Court regarding the existence of the videotaped interviews of children in Mr Ellis's case.

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

Yours sincerely



Jeff Orr  
**Chief Legal Counsel**

## SCHEDULE A

#	Date	Document	Comment on release of document
1	8 May 2009	Email chain between Christchurch High Court registry and Ministry of Justice	Released in full

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**From:** Andrew Hampton <Andrew.Hampton@justice.govt.nz>  
**Sent:** Friday, 8 May 2009 4:50 p.m.  
**To:** Orr, Jeff  
**Subject:** Fwd: PETER ÉLLIS

Andrew Hampton  
General Manager Higher Courts  
Ministry of Justice  
Tahu o te Ture  
Level 4 Vogel Building  
Aitken Street  
PO Box 180  
Wellington New Zealand  
DDI 64 4 918 8880  
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>>> Peter Fantham 8/05/2009 >>>

Andrew

I can confirm we do have the tapes here. I think we actually have everything connected with the trial still stored here.

Cheers

Peter

RELEASED UNDER THE  
OFFICIAL INFORMATION ACT