

26 February 2018

Ross Francis

By email via the FYI website: fyi-request-7178-0c5ba580@requests.fyi.org.nz

Dear Mr Francis

**Official Information Act Request – Peter Ellis Research
Our Ref: OIA353/1**

1. We refer to your request under the Official Information 1982, received by this Office on 27 January 2017, in which you have requested information relating to the Peter Ellis case.

2. Your request stated:

In December 2007, at the inaugural Innocence Project New Zealand conference, Professor Harlene Hayne from Otago University spoke about her research into the Peter Ellis case. She said that there was a "strong risk" that the complainants' evidence had been contaminated.

Please provide me with all information you hold - including in the minds of officials - about Harlene Hayne's research, including any comments on her research, and any comments about reports of her research.

In 1999, retired High Court Judge Sir Thomas Thorp wrote a report into the Ellis case. He advised that there seemed to be no reason why Crown Law could not obtain the opinion of Professor Stephen Ceci in order to advance the case.

Has Crown Law read Sir Thomas's report and has it sought Professor Ceci's opinion in respect of any aspect of the Ellis case?

3. We rely in principle on Law Officer privilege as a primary ground for withholding information concerning work undertaken by this Office in relation to the criminal appeals in the Peter Ellis matters. That work was undertaken on behalf of the Attorney-General as the Senior Law Officer. Any work that this Office undertakes in this capacity is outside the scope of the Official Information Act. We consider our views concerning the applicability of the Law Officer privilege are supported by previous Ombudsman case notes on the Law Officer role.

4. However, in this case, either we do not have the information requested, or we are unable to answer the request.

Professor Harlene Hayne

Please provide me with all information you hold - including in the minds of officials - about Harlene Hayne's research, including any comments on her research, and any comments about reports of her research.


5. In 2008 you asked for any information Crown Law held about Professor Harlene Hayne. You were advised by letter dated 11 September 2008 that Crown Law did not hold any information about Professor Harlene Hayne and her review, was not aware of the contents of her review, and that no information had been requested or received from Professor Hayne or Judith Ablett-Kerr QC.
6. In answer to your current request, Crown Law still does not hold any information regarding Professor Hayne's research into the Peter Ellis case – neither her report nor any academic articles relating to it were located on any of the files relating to the Peter Ellis cases. Furthermore, none of the staff who were tasked with the responsibility of the Peter Ellis case are still employed at Crown Law.

Sir Thomas Thorp

Has Crown Law read Sir Thomas' report and has it sought Professor Ceci's opinion in respect of any aspect of the Ellis case?

7. We have searched relevant files and been unable to find any relevant information with regard to the questions you have asked. Furthermore, as we have advised above, none of the staff who were tasked with the responsibility of the Peter Ellis case are still employed by Crown Law. We are therefore unable to answer the questions you have asked.
8. If you are unhappy with our response to your request you may, if you wish, ask the Ombudsman to investigate our response.

Yours sincerely
Crown Law



Peter Gunn
Crown Counsel/Team Manager
Constitutional and Human Rights Team