

7 August 2013

Patrick O'Brien

**BY EMAIL: [patrick\\_john\\_obrien@hotmail.com](mailto:patrick_john_obrien@hotmail.com)**

Dear Mr O'Brien

**Privacy Act Complaint: Patrick O'Brien and New Zealand Police (Our Ref: C/25447)**

I refer to previous correspondence concerning the Privacy Act complaint you made against Police.

On 30 November 2012 you made a request to Police for a copy of a report by Bruce Squire QC. This report was created following Mr Squire's independent investigation into allegations that you had made that you had committed perjury during your time as an undercover Police officer.

Police responded to your request on 14 March 2013 and refused it pursuant to section 9(2)(h) of the Official Information Act 1982.

You complained to the Office of the Ombudsman about this refusal, and it transferred the complaint to our office on the basis that it was likely to relate to a possible interference with privacy which should be considered under the Privacy Act.

We have investigated your complaint as one raising an issue under principle 6 of the Privacy Act.

As set out in our letter of 20 June 2013 to you, under principle 6 you have a right to access personal information held about you by Police. However this is not an absolute right, and Police can refuse to provide you this information if they have a proper basis under sections 27-29 of the Privacy Act.

We notified your complaint to Police and it has provided us with a copy of Mr Squire's report. It has advised that it seeks to withhold this report under section 29(1)(f) of the Privacy Act on the basis that disclosure of the report would breach legal professional privilege. Legal professional privilege in this case is solicitor-client privilege, which exists to protect the

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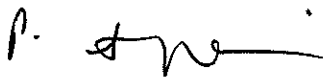
confidentiality between lawyers and their clients, to enable the client to be open and honest with their lawyer, and so that in return the lawyer can give them free and frank advice.

Having considered the Police's submissions and read the withheld report, I am satisfied that it falls into the category of solicitor client privilege and releasing it to you would breach this legal professional privilege. I am therefore satisfied that it can be withheld under section 29(1)(f) of the Privacy Act.

Accordingly it is my view that Police's decision to refuse to give you Mr Squire's report was not in breach of principle 6, and did not interfere with your privacy.

This is my preliminary view. If you would like to comment on this view please do so by 30 August 2013. Please note that if we have not heard from you by then we will presume that you do not wish to pursue the matter, and we will close our file on that basis.

Yours sincerely



**PP** Emma Pond  
**Senior Investigating Officer (Auckland)**