

**(1) ORDER PREVENTING SEARCH OF THE TRIBUNAL FILE WITHOUT LEAVE OF
THE TRIBUNAL OR OF THE CHAIRPERSON**

IN THE HUMAN RIGHTS REVIEW TRIBUNAL

[2021] NZHRRT 31

I TE TARAIPUNARA MANA TANGATA

Reference No. HRRT 011/2016

UNDER

THE PRIVACY ACT 1993

BETWEEN

BRIAN GREGORY MULLANE

PLAINTIFF

AND

ATTORNEY-GENERAL

DEFENDANT

AT WELLINGTON

BEFORE:

Mr RPG Haines ONZM QC, Chairperson

REPRESENTATION:

Mr BG Mullane in person

DATE OF HEARING: Heard on the papers

DATE OF DECISION: 13 July 2021

**DECISION OF CHAIRPERSON ON REQUEST BY PLAINTIFF
FOR TRANSCRIPT OF HEARING¹**

Introduction

[1] On 25, 26 and 27 September 2017 the Tribunal heard a claim by Mr Mullane against the Attorney-General under the Privacy Act 1993, IPP 8. At the relevant time Mr Mullane was a self-employed taxi driver in Wellington. In the context of a “fit and proper person” inquiry the Police Vetting Service on 20 June 2013 reported to the New Zealand Transport

¹ [This decision is to be cited as *Mullane v Attorney-General (Request for Transcript)* [2021] NZHRRT 31.]

Agency (NZTA) that, based on intelligence held, the Police recommended Mr Mullane not have unsupervised access to children, young people, or more vulnerable members of society. In *Mullane v Attorney-General* [2017] NZHRRT 40 (25 October 2017) the Tribunal found no breach of IPP 8 had been established by Mr Mullane.

[2] A subsequent application by Mr Mullane “demanding” the return to him of certain documents said to be on the Tribunal’s file was dismissed in *Mullane v Attorney-General (Request for Documents)* [2020] NZHRRT 14 (25 May 2020).

The application

[3] By email dated 9 July 2021 timed at 4:23pm Mr Mullane has now requested a transcript of the Tribunal hearing held on 25, 26 and 27 September 2017.

[4] The ground of the application is that the transcript is required for Mr Mullane “to have criminal charges laid against the two Police witnesses who gave evidence for the Police at the hearing”.

[5] The text of the email follows:

I am hereby requesting a copy of the full transcript of my HRRT case as above.

I need this in order to have criminal charges laid against the 2 Police witnesses Trappitt and Sadd. Both perjured themselves in the evidence they gave to the hearing Chaired by Rodger Haines with panel members Scott and Hart. There may also be other charges.

Your earliest attention to this matter would be appreciated.

Background to the application

[6] Mr Mullane has been investigating what he calls the “scandal” of Police “Red Stamp” warnings and has claimed (see for example the email dated 30 March 2020 addressed to the Tribunal and Ms Debra Harris, Crown Counsel) that the “entire scenario was orchestrated by senior government officials”:

... I have further evidence that this entire scenario was orchestrated by Senior Government officials, (names unknown) but includes senior staff from Attorney-Generals Office, Solicitor-Generals Office, State Services Commissioner, Police Commissioner and Executive, Independent Police Conduct Authority (IPCA), Privacy Commissioner, Chief Ombudsman, and the respective Parliamentary Ministers of the aforementioned Government Departments and Agencies, et al.

[7] In other correspondence he has asserted that the “corruption, the intrigue, the lies and deceit of senior Government Department Heads” is endless. See his email dated 20 March 2020 addressed to Crown Counsel but copied to the Tribunal:

The diseased tentacles of this monster stretches into every sector of the public service, IPCA, Privacy Commission, The Ombudsman's Office, The Attorney-General and his Office, The Solicitor-General and her office (Crown Law), The Justice Department (HRRT), The State Services Commissioners Office, and of course, The Police Commissioner and his Executive. All of these people were issued a directive from person/s unknown, (but it is my educated guess that it is GCSB and Prime Ministers Department) to stop the truth of this scandal being revealed to the public, hence a total media ban and why Politicians, from day one, have ignored my pleas for help and also why senior respected officials, such as Edwards, Judge Sir David Carruthers, Judge Peter Boshier and his corrupt side-kick Leo Donnelly, have deliberately misled me, delayed investigations of my complaints to their Agencies (upto 3 and a half years) and then give some lame excuse which led back to it being my fault.

[8] Mr Mullane has also alleged the Chairperson of the Tribunal is corrupt and a complaint has been made to the Minister of Justice and to the Ministry of Justice.

[9] On 21 October 2020 the Tribunal received in the mail ten identical letters from Mr Mullane individually addressed to the five Deputy Chairpersons and five members of the Panel. The subject line of the letters read:

The ever-evolving influence of the American spy agencies (CIA and NSA) on NZ's parliamentary and legal systems – courtesy of New Zealand's membership of the "5 Eyes" spy network.

[10] In his letter Mr Mullane explained he would be using his experience to prove "just how devious and complicit senior government officials and politicians can be when defending the secrecy aspect (National Security) of a case, in my instance the Parliamentary Executive and GCSB directed cover-up of the Police Vetting Service scandal beginning 21 June 2013". The letter went on to make a number of allegations against not only one of the Tribunal's case managers but also the Police witnesses who gave evidence before the Tribunal. The 19 page letter concluded with an assertion by Mr Mullane that he has been persecuted because he is "a whistle blower" and that he was "never allowed to win this case".

[11] One of the preoccupations in the correspondence received from Mr Mullane is his belief the two named Police witnesses have conducted a personal and private vendetta against him and wilfully disseminated false facts and information.

[12] It is in connection with his stated intention to bring criminal charges against the two witnesses that he has now made application for the transcript of the hearing before the Tribunal.

Discussion

[13] At present there is no written transcript, only an electronic record.

[14] The Tribunal is not as well-resourced as the District Court or the senior courts. Transcripts are not provided by the National Transcription Service (NTS) unless the Tribunal submits a specific application. Whether a transcript is provided is subject to the then workload of the NTS. Delivery timeframes vary considerably.

[15] Due to the time and expense involved, transcripts are not often sought by the Tribunal.

[16] Given the resource implications, where one of the parties makes application to the Tribunal for the preparation of a transcript, the Tribunal must satisfy itself there is good reason in the interests of justice for giving a direction that the transcript be provided. See *Siemer v Heron* [2011] NZSC 116 at [9]:

[9] ... There are obvious resource implications if judges direct court registries to provide parties with transcripts of hearings of appeals and interlocutory matters generally on demand by litigants. For that reason, judges should always first satisfy themselves that there is good reason in the interests of justice for giving such directions. In this case, the Judge was clearly of the view that in the circumstances it was preferable that assessment of the need for a transcript be made after the Court was better informed of the nature of the grounds for the proposed appeal, and their merit.

Decision

[17] For the following reasons the application that a transcript of the hearing be prepared is declined:

[17.1] There is presently no written transcript. Time and expense will be involved were the Tribunal to request that a transcript be prepared by the NTS.

[17.2] Mr Mullane has accused senior government officials (and the two Police witnesses named in the application) of obstructing Mr Mullane's access to a fair and impartial investigation of his many complaints and accusations. His claims have been framed in strident, if not extravagant terms. The allegation that the two Police witnesses perjured themselves when giving evidence to the Tribunal is one such example. No grounds have been given to lend credence to the allegation.

[17.3] In the circumstances it is likely the pressing by Mr Mullane of criminal charges will be a means of harassing two witnesses who the Tribunal expressly found gave careful and conscientious consideration to the vetting request affecting Mr Mullane. See *Mullane v Attorney-General* [2017] NZHRRT 40 at [83] and [107].

[17.4] The hearing before the Tribunal took place three years and ten months ago. There has been no explanation for the delay.

Conclusion

[18] Given these factors I have not been satisfied by Mr Mullane there is good reason in the interests of justice for a direction to be given that a transcript of the hearing be prepared.

[19] The application is dismissed.

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Mr RPG Haines ONZM QC
Chairperson