



GOVERNMENT COMMUNICATIONS SECURITY BUREAU

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A2371950

16 March 2020

Mahrukh Sarwar

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Dear Ms Sarwar

Official information request

I am writing in response to your correspondence dated 17 February 2020. In this correspondence you asked for further clarification regarding a number of my previous responses to your questions, and asked several new questions.

In my response below, I have reconsidered my response to your original questions 2 and 8, and you will find the requested information enclosed. I have also provided further clarification in relation to your original question 1. Finally, you asked a number of supplementary questions following on from your original questions 4, 9, 10, 11, 13, 19, 20, and 21, which I respond to in turn.

GCSB's Role in the National Security System and Counter-Terrorism

As discussed previously, the Government Communications Security Bureau (GCSB) specialises in signals intelligence (SIGINT)¹ conducted for the purpose of (primarily foreign) intelligence collection and analysis, and for information assurance and cybersecurity reporting and services. In fulfilling its intelligence collection and analysis, and information assurance and cybersecurity functions, GCSB contributes to the national security system.

GCSB collects and reports on SIGINT in accordance with the priorities set by the New Zealand Government.² The Government's priorities are agreed by the Cabinet External Relations and Security Committee (ERSC). The most recent priorities were agreed on 4 December 2018 and issued as New Zealand's National Security and Intelligence Priorities (NSIPs). You can find a copy of those priorities on page 12 of the GCSB's 2019 Annual Report, which can be found online at www.gcsb.govt.nz.

As I previously stated, the attack on Christchurch Mosques was a horrific event which challenged everything that New Zealand holds dear. GCSB continues to co-operate fully with the Royal Commission Inquiry into the attack on Christchurch Mosques.

GCSB's Approach to Responding to Information Requests

In your letter, you ask "how GCSB distinguishes information they would rather not disclose for public relation reasons..., and information that is genuinely going to prejudice defence and security of New Zealand". The GCSB does not withhold information on the basis of "public relation reasons". The GCSB aims to be as open as possible, however, due to the sensitive nature

¹ SIGINT is intelligence derived from electronic communications, the primary component of which is communications intelligence or COMINT.

² Intelligence and Security Act 2017, s10

of what we do and based on the specific circumstances of each request, we do withhold information based on the legislative grounds for withholding information under the OIA, such as the national security or international relations ground in s6(a).

With regards to my previous response, I stand by my decision to withhold specific information (questions 3, 7, 15, 16, 18) under section 6 of the OIA. It is vital that the GCSB protects its activities, sources of information, methods, partners agencies and staff identities. To release this kind of information publicly would potentially have an impact on people's safety, as well as limit the GCSB's ability to achieve its objectives. For example, providing information about our specific budget for certain activities would assist adversaries in working out our particular capabilities (or lack thereof), which could then be exploited.

Additionally, New Zealand receives information and reporting from overseas partner agencies. This information is provided on the basis that it will remain confidential and classified. To release this information, or confirm the existence of specific reports, would compromise the quality and supply of similar information in the future, which would prejudice New Zealand's security and damage international relations.

GCSB's grounds in support of withholding under Section 6 of the OIA.

For questions 3, 7, 15, 16, and 18, you asked for grounds in support of the reasons to withhold that information under section 19 of the OIA. The responses to these questions were withheld under section 6(a) of the OIA. I cannot provide you with any further grounds beyond what was provided in my original response, and above, as the giving of any further information would itself prejudice the interests protected by section 6.

Your right to complain to the Office of the Ombudsman

You have the right to seek an investigation and review by the Ombudsman in relation to my decisions in my OIA responses. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

It may reassure you to know that GCSB fully co-operates with these investigations. If the Office of the Ombudsman determines that it needs to review classified information (which it often does) in order to make an independent decision on a complaint, GCSB organises and co-ordinates the security clearances of relevant staff in the Office of the Ombudsman in order to make that classified information available. GCSB also meets with Ombudsman staff in a Secure Compartmented Information Facility (SCIF) so that it can discuss classified information freely and openly.

This means that the Office of the Ombudsman's investigations are always based on all the available information, including classified information that the GCSB has determined it cannot disclose to requesters and which it considers necessary to withhold under a withholding ground within the OIA.

Question 1

Original request: *Copies of GCSB documents, correspondences and addresses (including but not limited to emails, letters, and presentations), for specific periods (October 2017 – September 2019, November 2008 – October 2017, December 1999 – November 2008, and November 1990 – November 1999), referring to any of the following terms:*

- a. *Arab / Muslim / Islam / Islamist / Islamicist / Jihadist /*
- b. *Terrorists / Extremists / Radical / Far-right / White supremacy*

Your follow-up comment: *We understand that our requests may take time to collate. We request that the information still be collated as soon as possible so as to inform the current surge of public resources already going into inquiring into these matters. Your agency's cost will pale into insignificance in comparison. We still request this information even if you gather this information very slowly for some extremely extenuating reason beyond the submission date for the Royal Commission Inquiry. This is because, as noted above, the information will also be helpful for researchers and academics. Practical approaches to genuinely considering this request may include focusing on the order of priority that we have provided and providing us with staggered responses. If needed, your agency can prioritise certain searches as well. You can decide which searches you consider less inconvenient to take on first as per GCSB's operation processors or resource use etc. We request that you keep us updated on your process.*

I do not consider that an extension of the timeframe for responding to your request, or charging you money, would enable the GCSB to provide a response. Due to the volume of information involved, I consider that separating your request out by the time periods you provided would still not enable the GCSB to fulfil your request without severely impacting the operating performance of the organisation.

As stated in my original response, I welcome you to refine your request further, if there is a more specific topic you seek information about.

Question 2

Original request: *All interviews, speeches and lectures on the topic of the 'Role of the GCSB' from October 2017 – September 2019, November 2008 – October 2017, December 1999 – November 2008, and November 1990 – November 1999.*

Your follow up comment: *We understand from your response some speeches have been withheld because they are not "unclassified." It is difficult to gauge the extent of your refusal without a proper compilation and itemised disclosure and/or refusal. You have not provided any itemised lists of refusals, such as what the nature of the address generally was, who it was made to, what year and why it is prejudicial. We argue that this is analogous to the "blanket" approach taken by the Minister in the Kelsey case, which is unlawful.*

I am extending the timeframe to respond to this request under section 15A(1)(b) of the OIA: consultations necessary to make a decision as such that a proper response to the request cannot reasonably be made within the original time limit. This is because I am considering for release talking points for a series of closed forums I have presented to in my time as Director-General. You will receive a further response by 24 April 2020.

Question 4

Original request: *Copies of staff training documentation and audio-visual programmes on Islam and Muslim from periods October 2017 – September 2019, November 2008 – October 2017, December 1999 – November 2008, and November 1990 – November 1999.*

Your follow up question: *We would like to confirm whether the GCSB is saying that for the relevant time periods provided, the only training regarding Islam and Muslims are an externally supplied two-day course called "Introduction to Islam and the Muslim World," and a half day workshop called "Islam and the Muslim World."*

Yes, Introduction to Islam and the Muslim World (2016-2017) and Islam and the Muslim World (2018 onwards) are the courses that were, and remain available to all GCSB staff.

I note we do not hold centralised records for the time period prior to 2016 and refused this part of your request under section 18(f) of the OIA: the information requested cannot be made available without substantial collation.

Your follow up question: *Please confirm how many staff members actually attended the courses (number and/or percentage; specific or general) and what their respective positions/roles are at the GCSB.*

Our records show that these courses have run 7 times between the years 2016 - 2020, and 125 staff from the GCSB and New Zealand Security Intelligence Service (NZSIS) have attended. A broad range of staff attended these courses, including a number of advisors, officers, managers, supervisors, team leads and analysts.

Your follow up question: *Please provide us with details regarding the trainers' expertise/qualifications that deems them appropriate to carry out the workshops. We believe disclosing the expertise/qualifications is important to show that the GCSB are adequately trained to deal with the Muslim community. Please provide us with further information about how releasing information of the identity of external suppliers would prejudice national security or defence of NZ? We are entitled to ask for this information under section 19(a)(ii).*

The GCSB does not provide information that could reveal the identity of external suppliers for the reason that the release of their identity would be likely to prejudice the national security or defence of New Zealand (section 6(a) of the OIA). Releasing information that could reveal the trainer's identity would make them a target for adversaries. Section 6(d) of the OIA also applies: the making available of the information would be likely to endanger the safety of any person.

Question 5

Original request: *What professional cultural advice or training or resources has the GCSB requested or received on Islam or Muslims for periods October 2017 – September 2019, November 2008 – October 2017, December 1999 – November 2008, and November 1990 – November 1999?*

Your follow-up comment: *We are aware that the NZSIS and GCSB work closely together to exchange signal and human intelligence. Therefore, it is important to know how the GCSB has engaged with the Muslim Community.*

I stand by my original response, and have provided further relevant information in the response to question 4, above.

Question 8

Your original request: *What is the ethnic cultural composition over the periods October 2017 – September 2019, November 2008 – October 2017, December 1999 – November 2008, and November 1990 – November 1999 of your senior operational staff.*

Your follow-up comment: *This information has been withheld under section 18(f) of the OIA, this being that the information cannot be made available without substantial collation. The refusal on the basis of section 18(f) is vague as it does not include basic information like how many senior operational staff GCSB have, which would mean the information “cannot be made without substantial collation.” Although the GCSB might not record the ethnic identity for senior operational staff separately from the whole organisation, we believe that the GCSB has the means to collate this data. For an agency of this size, this is a modest exercise to undertake.*

I have reconsidered this request and have collated the ethnic identification of senior operational staff for the financial years 2007 – 2019, which can be found in Table 1, enclosed in Annex A.

I must refuse to provide this information for the financial years 1999 – 2006, under section 18(e) of the OIA (documentation does not exist or, despite reasonable efforts to located it, cannot be found), as we cannot find any relevant records.

Question 9

Original request: *What diverse perspectives have been embraced and resulted in reform of organisational culture that promotes diverse experiences and perspectives?*

Your follow-up question: *From your list provided so far, it is not apparent how such programmes provide the agency with a diversity of experiences and perspectives that directly touch upon the core business/work and the core purpose of the agency. Furthermore, in the Briefing to the Incoming Minister Report in 2017, the GCSB clearly outlines how their attempts at addressing greater female representation in the GCSB (5). However, the same is not done for ensuring ethnic diversity. Rather, the report states “the NZIC recognises this is an issue and is actively seeking to mitigate any negative impacts on potential employees, staff and the NZIC.” No further detail is provided. Similarly, in the GCSB and NZSIS’ shared Diversity and Inclusion Strategy it clearly states there is “an aspiration to increase our ethnic diversity within the NZIC by three percent inclusive of Māori, Pacific, and Asian peoples within three years.”(6) There is no detailed plan to do this as there is with women. Furthermore, the aspiration does not include increasing representation of Middle Eastern/Latin American/African peoples, who at June 2017 only made up 0.25% of the GCSB’s Ethnic Profile. Would you be able to clarify why this is the case?*

The GCSB recognises that having a diverse workforce and an inclusive workplace is vital for innovation and the avoidance of “group think”. It brings forth new and better ways of doing things, helps us harness the benefit of technology and improve the efficiency and quality of our services. In addition, as an intelligence agency, much of the work the GCSB does often cannot be publicly disclosed, and therefore it is important that the public have confidence that we represent the communities we serve. As a result, diversity and inclusion has been a key focus for me personally, as Director-General of the GCSB.

Our Diversity and Inclusion Strategy sets out two key goals: to attract, retain, develop and progress the number of women at all levels, and the number of Māori, Pacific and Asian peoples. However, an overarching goal, also laid out in the Diversity and Inclusion Strategy, is to increase the ethnic diversity of the organisation by one percent each year. By 30 June 2020 we aspire to have 70 employees who come from Māori, Pacific, or other ethnic backgrounds – including Asian, Middle Eastern Latin American and African (MELAA) – representing 13.6 percent of the GCSB.

We are making steady progress towards this goal. For example, 20% of all staff coming into the GCSB between 30 June 2019 and 31 December 2019 identify as Māori, Pacifica, Asia, Middle

Eastern, Latin America or other ethnic backgrounds. Our overall ethnic representation sits at 12.66% as at 31 December 2019, which is 0.06% above our 30 June 2019 goal.

When you compare our current 12.66% figure to our 2017 figure (10.6%), it is clear that progress is being made. We acknowledge that there is more to do, and we are committed to ensuring we reach a point where our workforce is representative of all New Zealand.

Following on from our Diversity and Inclusion Strategy, in 2019 the GCSB and NZSIS commissioned some external research to get a better understanding of any potential barriers to Māori, Pacifica and MELAA joining GCSB and NZSIS. This research focused on how female and ethnically diverse members of the public perceive the New Zealand Intelligence Community (NZIC), what motivates these groups, and what we might need to consider in order to attract more diversity to the NZIC.

The overall findings of this research showed that barriers included: limited knowledge of the NZIC and the roles within it, little knowledge of benefits, self-discounting behaviour, and poor work-life balance perceptions. Both the GCSB and NZSIS have work underway to address these findings. This year we intend to release a recruitment video to convey the variety of roles available in the NZIC and show how we align to today's ideals around work-life balance and flexibility.

We also recognise that inclusiveness is key to staff retention and attraction. We have introduced a number of staff networks including an Ethnicity, Rainbow, Women in Intelligence, Parents Outreach, and Mental Health and Wellbeing networks. Other initiatives include offering free two-hour weekly Te Reo lessons – which has a high participation level. To date, 150 staff have participated in these lessons.

Question 10

Original request: *What methods does the GCSB use to determine priorities regarding threats to national security?*

Your follow-up question: *Can you please clarify how the GCSB remains impartial and politically neutral if the priorities are set by Cabinet?*

As per section 10(1)(a) of the Intelligence and Security Act 2017, a function of the GCSB is to collect and analyse intelligence in accordance with the New Zealand Government's priorities (which are laid out in the National Security and Intelligence Priorities).

As public servants and by law, we also are required to work in a politically neutral manner. Our responsibility (like that of all public sector organisations) is to provide strong support for the Government of New Zealand, regardless of the political composition of the Government.

Because of the apolitical way we carry out our functions, those who may be in Government at some future date can be confident that we will support them and be equally fit to carry out the work of government under their administration. This apolitical stance of public sector organisations is a key component of New Zealand's constitutional arrangements.

The State Services Commission (SSC) has produced guidelines for public sector agencies around political neutrality. You can find a copy of this guidance online at <https://ssc.govt.nz/resources/political-neutrality-guidance>.

Question 11

Original request: *How do security agencies identify threats as either “potential threats” or “possible threats” or “imminent threats”?*

Your follow-up question: *We would like to clarify that the purpose of the question was to understand what system the GCSB uses that enables it to distinguish between threats that are about to be carried out (such as Mr Tarrant with all his planning and sophistication) and general rhetorical threats made by extremists. We would also like to know what level of scrutiny is given to these threats.*

GCSB does not undertake intelligence assessment. Instead, we rely on the expertise of other agencies, particularly NZSIS and NZ Police, to provide an accurate assessment of the validity and urgency of any information GCSB may have collected and passed to the NZSIS and NZ Police for their action. Accordingly, this request is refused on the ground this information does not exist in GCSB records (section 18(e) of the OIA).

Question 13

Original request: *How does the GCSB distinguish between white supremacists and far-right extremist groups?*

Your follow-up question: *Would you be able to confirm that you are saying the GCSB does not distinguish between white supremacists and far-right extremists?*

GCSB does not distinguish extremists on the basis of their beliefs, rather we focus on their plans and actions that may have impact on New Zealand’s national security. Accordingly, this request is refused on the ground this information does not exist in GCSB records (section 18(e) of the OIA).

Question 19

Original request: *What cultural intelligence and cultural awareness and sensitivity training and reform arose out of the consequences of the Ahmed Zaoui Case? What cultural intelligence and cultural awareness and sensitivity training and reform arose out of the consequences of the Urewera Raids?*

Follow-up questions: *We would like to confirm that despite the national and international significance of these cases, no policy changes were made as a result of these cases?*

Your original request related to “cultural intelligence and cultural awareness and sensitivity training”. We confirmed in our original response that changes to organisational “cultural intelligence and cultural awareness and sensitivity training” have not arisen as a result of any particular cases. Instead, matters such as cultural intelligence and awareness and the need for “sensitivity training” responds to our own identified organisational needs and relevant directions from the New Zealand Government.

Question 20

Original request: *On how many occasions has there been a review of policies regarding Muslims by any persons outside the GCSB for periods October 2017 – September 2019, November 2008 – October 2017, December 1999 – November 2008, and November 1990 – November 1999?*

Follow-up comment: *We would like to clarify that our request is not asking about policies specifically for Muslims. Rather, we were inquiring into the policies used when monitoring or engaging with Muslims and the Muslim Community.*

GCSB does not have a practice of getting its internal policies externally reviewed. However, the Inspector-General of Intelligence and Security (IGIS) is a statutory officer who provides independent external oversight and review of the GCSB. The IGIS reviews all intelligence warrants issued by the GCSB and NZSIS. In 2018 the IGIS published a report on warrants issued under the

ISC by the GCSB and NZSIS, and in 2019 she published a follow-up report on the matter. These reports, and all the IGIS's other published reports, can be found online at www.IGIS.govt.nz.

Further, to obtain any intelligence warrant, GCSB must demonstrate that the proposed activity is being carried out in accordance with specific NSIPs, that the proposed activity is necessary and proportionate, and that the purpose of the intelligence warrant cannot be achieved by a less intrusive means.³ Intelligence warrants which may involve activities against New Zealanders are signed off by the Minister responsible for GCSB and a Commissioner of Intelligence Warrants (currently, our two Commissioners are both former High Court Judges), or by only the Minister if the activities do not involve New Zealanders.

Under section 61(d) of the ISA, the Minister responsible for GCSB and/or the Commissioner have to be satisfied that GCSB have satisfactory arrangements to ensure that:

- nothing will be done in reliance on an intelligence warrant beyond what is necessary and reasonable for the proper performance of GCSB's function under section 10 of the ISA;
- all reasonably practicable steps will be taken to minimise the impact of the activity on members of the public; and
- any information obtained under an intelligence warrant will be retained, used and disclosed only in accordance with legislation.

Question 21

Original request: *What was the reason the GCSB understands for the cause of*

- a. Missing the Christchurch attacker*
- b. Less attention paid to white extremism*

Follow-up questions: *We understand that the GCSB does not have the legal authority, technical means or resources to monitor actively all online activity that occurs in New Zealand. Would you please confirm, however, that the GCSB was indeed monitoring online activity regarding right-wing extremism and/or white supremacy before March 15th? You have stated that some information created for the Royal Commission falls within the scope of the request but cannot be made public. Can you please clarify whether this statement has been made in regard to the whole OIA request or specifically in regard to question 21?*

I must refuse to provide information relating to the operational focus of the GCSB prior to March 15 under section 6(a) of the OIA. The GCSB does not release information about its targets or specific areas of focus as to release this type of information would prejudice national security.

My statement that some of the information created for the Royal Commission falls into scope of this request pertained specifically to question 21.

³ ISA 2017, section 61.

If you wish to discuss this response with us, please feel free to contact information@gcsb.govt.nz.

As stated previously, you have the right to seek an investigation and review by the Ombudsman in relation to my decisions in my OIA responses. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Yours sincerely



Andrew Hampton
Director-General of the GCSB

Annex A

Table 1: Ethnic identification of GCSB senior operational staff (financial years 2007-2019)

GCSB	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
NZ European	78.6%	66.7%	66.7%	61.1%	68.8%	58.8%	57.1%	44.4%	75.0%	50.0%	66.7%	66.7%	50.0%
European	14.3%	14.3%	26.7%	27.8%	25.0%	29.4%	35.7%	44.4%	25.0%	50.0%	33.3%	33.3%	50.0%
NZ Māori	7.1%	7.1%	6.7%	5.6%	6.3%	11.8%	7.1%	11.1%		50.0%	33.3%	33.3%	25.0%
New Zealander				5.6%									

Please note:

- This data excludes operational staff from the National Cyber Security Centre (NCSC) as they were deemed out of scope of your request;
- Where figures sum to above 100% it reflects the fact staff identify with more than one ethnicity; and
- Some staff opted not to provide their ethnic identification, and in this case it could not be collated.