



GOVERNMENT
COMMUNICATIONS
SECURITY BUREAU
TE TIRA TIAKI



New Zealand
Security Intelligence
Service
Te Pā Whakamarumarū

[A1705743]

9 May 2018

Yu Le Kong-Lim

fyi-request-7679-5b5cfd1@requests.fyi.org.nz

Dear Yu Le Kong-Lim

Official information request for information relating to People Against Prisons Aotearoa

We refer to your official information request to the Government Communications Security Bureau (GCSB) and the New Zealand Security Intelligence Service (NZSIS) dated 20 April 2018 for:

1. Whether any intelligence warrants have been issued for People Against Prisons Aotearoa and/or any member (s) of People Against Prisons Aotearoa. If so, which relevant sections and subsections have these intelligence warrants been issued under (sections 58 and 59 of the Intelligence and Security Act 2017), and when were these intelligence warrants issued and for what purposes
2. Whether any section 122 certificates have been issued regarding People Against Prisons Aotearoa and/or any members of People Against Prisons Aotearoa (see sections 122 and 123 of the Intelligence and Security Act), and when were these certificates issued
3. Whether GCSB/NZSIS has co-operated with NZSIS/GCSB, the New Zealand Defence Force and/or the New Zealand Police to undertake intelligence activities upon or about People Against Prisons Aotearoa and/or member(s) of People Against Prisons Aotearoa (e.g. under section 10(2)(a) and section 13(1)(a)(iii) of the Intelligence and Security Act). If so, when were these intelligence activities undertaken and of what nature were these activities
4. Whether GCSB/NZSIS has provided or is providing advice or assistance to any public authority to activities regarding People Against Prisons Aotearoa and/or member(s) of People Against Prisons Aotearoa (e.g. as covered under section 10(2)(a) and section 13(1)(b) of the Intelligence and Security Act). If so, when were these intelligence activities undertaken and of what nature were these activities
5. Whether GCSB/NZSIS has requested or is requesting the government of, or an entity in, another jurisdiction to carry out an activity upon People Against Prisons Aotearoa and/or members of People Against Prisons Aotearoa that, if carried out by an intelligence and security agency, would be an unlawful activity (following section 67(1)(e) of the Intelligence and Security Act). If so, how many requests have been made
6. Whether any activities undertaken by People Against Prisons Aotearoa have been or are being regarded as an imminent threat under section 14 of the Intelligence and Security Act 2017. If so, which activities in particular

7. Whether Thompson and Clark or any other non-public entity has been or is being contracted or approached by GCSB/NZSIS to undertake activities upon members of People Against Prisons Aotearoa. If so, what is the nature and duration of aforementioned activities
8. Whether GCSB/NZSIS has carried out or is carrying out activities upon members of People Against Prisons Aotearoa, without requesting the exact details or nature of surveillance which would be contrary to national security
9. If activities have been carried out upon members of People Against Prisons Aotearoa, the number and nature of instances that have been carried out.

We have prepared a joint response to your request, as follows.

In relation to your request, under section 10 of the Official Information Act 1982 (OIA) GCSB and NZSIS neither confirm nor deny whether we hold the requested information about People Against Prisons Aotearoa (formerly known as “No Pride in Prisons”). We consider that to do so would be likely to prejudice the interests protected by section 6(a) of the OIA, namely the security or defence of New Zealand or the international relations of the Government of New Zealand.

However, in response to your question in relation to Thompson and Clark, we can confirm that neither GCSB nor NZSIS have procured any services from Thompson and Clark Investigations.

We would like to reassure you that GCSB and NZSIS are subject to robust oversight, including independent external oversight and review by the Inspector-General of Intelligence and Security, as well as oversight by the Chief Commissioner of Intelligence Warrants, the Office of the Ombudsman, the Office of the Privacy Commissioner and the Intelligence and Security Committee.

The following points might also provide you with reassurance about the protections that are in place for New Zealanders:

- GCSB and NZSIS must obtain a Type 1 intelligence warrant to authorise them to carry out otherwise unlawful activities for the purpose of collecting information about or to do any other thing directly in relation to New Zealanders;
- GCSB and NZSIS can only obtain a Type 1 intelligence warrant when the activity is either:
 - Necessary to contribute to the protection of national security and identifies, enables the assessment of, or protects against any of the harms listed in section 58(2) of the Intelligence and Security Act 2017 (ISA); or
 - Will contribute to the international relations and wellbeing of New Zealand or the economic wellbeing of New Zealand and there are reasonable grounds to suspect that the New Zealander (or in some limited situations, a class of New Zealander) is acting, or purporting to act, for or on behalf of a foreign person, foreign organisation, or designated terrorist entity.
- A Type 1 intelligence warrant must be jointly issued by the Minister responsible for the agency and a Commissioner of Intelligence Warrants, and is subject to review by the Inspector-General of Intelligence and Security; and
- GCSB carries out information assurance and cyber security activities, which may involve collecting information about New Zealanders. Those activities must be lawful (such as carried out with consent), or authorised by an intelligence warrant.

In addition, section 19 of the ISA expressly states that the exercise by any person in New Zealand or any class of persons in New Zealand of their right to freedom of expression under the law (including the right to advocate, protest, or dissent) does not of itself justify GCSB or NZSIS taking any action in respect of that person or class of persons.

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

You have the right to seek an investigation and review by the Ombudsman of this decision. 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



Rebecca Kitteridge
Director-General of Security