



21 December 2020

Bryan Stralow

fyi-request-14053-522d8f64@requests.fyi.org.nz

Dear Bryan Stralow

Official Information Act request

I refer to your Official Information Act 1982 (OIA) request dated 3 November 2020 for information relating to metadata and the Privacy Act 2020. I note that you provided further clarification on 4 November 2020.

My responses to your questions are below.

Are Members of Parliament (MP's hereafter) subject to any type of surveillance, including, but not limited to, the collection of metadata, location details and the like? Whilst not specifically requesting to establish if there were any current investigations into any MP's, my initial query relates to whether MP's metadata is collated in general (inactive surveillance). If metadata retention is occurring and ongoing for all MP's, would this information be accessible for a reasonable purpose by court order or any other suitable legal mechanism? Could you also provide an indication as to if any MP's are currently under "active" surveillance?

The GCSB is only able to collect information about New Zealanders for intelligence gathering purposes if it acquires a Type 1 warrant under the Intelligence and Security Act. In order to obtain such a warrant, the activity must be shown to be both necessary and proportionate. I am unsure what you mean by "inactive surveillance" however, I can say that the GCSB does not conduct mass surveillance, including mass surveillance of Members of Parliament.

Regarding your query about whether any MPs are currently under surveillance by the GCSB, as allowed by section 10 of the OIA, I can neither confirm nor deny whether the GCSB holds such information. 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.

While the GCSB aims to be as open as possible, due to the sensitive nature of what we do, there is some information we cannot reveal. It is vital that we protect our capabilities and specific areas of interest. To release this kind of information would limit our ability to achieve our objectives.

As contact tracing has now been written in to the Privacy Act 2020, with metadata collected by way of Bluetooth, Mobile Triangulation or other Wireless technology, could you please explain if this also applies to the various MP's, current and future?

The Privacy Act governs how individuals, organisations and businesses handle personal information.

Contact tracing has not been written into the Privacy Act 2020. The Privacy Act 1993, as well as the Privacy Act 2020, which came into force on 1 December 2020, enables agencies to

disclose information where it is necessary to prevent and lesson a serious threat to public health or safety.

If you are seeking more information about the application of the Privacy Act, I recommend you visit privacy.org.nz/privacy-act-2020.

If you wish to discuss this response 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

Te Tumu Whakarae mō Te Tira Tiaki

Director-General, Government Communications Security Bureau