



12 APR 2019



Dear 

Thank you for your email of 30 January 2019 requesting, under the Official Information Act 1982, information relating to the Ministry of Social Development's use of private security consultants. I apologise for the time that it has taken to respond.

From time-to-time, the Ministry has used private security consultants for a range of functions including briefing witnesses and serving Court documents. On 1 February 2019, you clarified that your interest is in relation to the use of private security consultants for surveillance type activities.

The Ministry has only contracted one private security consultancy to undertake surveillance of a client. This was Paragon consulting, which was used in the investigation of Wayne Patterson who was then convicted of the country's largest benefit fraud.

Following the State Service Commission's inquiry into the use of public security consultants, there has also been interest in the Ministry's use of private investigators in relation to Historic Claims. I have attached information relating to this, which might be of interest to you. In particular, Crown Law contracted one private investigator to locate some background information for two claimants. The Inquiry was unable to make a definitive finding on whether surveillance of these individuals had occurred.

I have addressed each of your questions in turn below.

- *Was Mr Hughes aware that the Ministry was using private security consultants? If so, please provide details of what he knew.*

As noted above, the Ministry has only contracted one security consultancy to undertake surveillance of a client. Peter Hughes as the Chief Executive of the Ministry of Social Development at that time was aware of the Ministry's use of Paragon in relation to a benefit fraud investigation. Due to the scale of the offending being investigated, Mr Hughes was regularly updated by Ministry staff throughout the investigation. He was advised of the name of the consultancy and, as things were progressing, he was regularly updated on the case, including what was being found by the surveillance.

A documentary *Catching the King of the Benefit Cheats* looks at the investigation into this fraud, including the use of surveillance.

- *The SSC report lists four providers the MSD used as private security consultants: Paragon, ICIL, Avon Investigations and Scope Investigations Limited. Please provide all correspondence (including emails, letters, reports and correspondence) that Mr Hughes was privy to from these organisations while he was chief executive.*

Paragon consulting was the only private security consultant that the Ministry has used for surveillance type activities of a client. The contracting of these experts was part of business as usual practice and Peter Hughes was not privy to any correspondence with Paragon. I am therefore unable to provide any written "correspondence that Mr Hughes was privy to" in accordance with section 18(e) of the Official Information Act 1982 as the information does not exist.

Avon Investigations was contracted to deliver court documents. Scope Investigations was used in relation to a potential provider-related fraud matter and ICIL were contracted by the Ministry's Historic Claims team.

- *Please provide copies of all reports and summaries these consultants prepared for MSD as their clients.*

The nature and urgency of the work undertaken by Paragon for the Ministry did not require them to write any reports or summaries. I am therefore unable to provide "copies of all reports and summaries these consultants prepared for MSD as their clients" in accordance with section 18(e) of the Act as the information does not exist.

The nature of any information provided by Paragon to the Ministry means that it would likely be withheld under sections 6(c), 9(2)(a), and 9(2)(h) of the Official Information Act in order to protect the maintenance of the law, personal information and information subject to legal professional privilege. Any public interest in the surveillance of Mr Patterson does not outweigh the need to protect the information at this time.

- *How much did the MSD pay these companies for their work as private security consultants? Please provide a breakdown of the costs.*

The Ministry paid Paragon consulting \$40,423 excluding GST for its services in relation to the surveillance in the investigation of a client.

- *Did MSD use any other private security consultants while Mr Hughes was chief executive? If so, please could you provide their names and outline the nature of their work.*

The Ministry has not used any other private security consultants to undertake surveillance type activities between 2001 and 2011, when Peter Hughes was Chief Executive.

- *A copy of all reports and correspondence prepared for the State Services Commission by the MSD which mention or discuss what Mr Hughes knew about the use of private security consultants while he was the chief executive of MSD.*

The Ministry did not prepare any reports or correspondence “for the State Services Commission, which mention or discuss what Mr Hughes knew about the use of private security consultants while he was the chief executive of MSD”. I am therefore unable to provide any information in accordance with section 18(e) of the Act as the information does not exist.

The principles and purposes of the Official Information Act 1982 under which you made your request are:

- to create greater openness and transparency about the plans, work and activities of the Government,
- to increase the ability of the public to participate in the making and administration of our laws and policies and
- to lead to greater accountability in the conduct of public affairs.

This Ministry fully supports those principles and purposes. The Ministry therefore intends to make the information contained in this letter and any attached documents available to the wider public shortly. The Ministry will do this by publishing this letter and attachments on the Ministry of Social Development’s website. Your personal details will be deleted and the Ministry will not publish any information that would identify you as the person who requested the information.

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

If you are not satisfied with this response concerning the Ministry’s use of private security consultants, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Nadine Kilmister', written in a cursive style.

Nadine Kilmister
Director
Office of the Chief Executive

Use of private investigators or external security consultants by Historic Claims

The Ministry is committed to ensuring individual claimants are treated with dignity and respect. We recognise that there is further work to be done to improve the process for claimants and we continue to consider what else we can do to improve their experience. To date we have resolved over 1,500 claims.

The use of private investigators or external security consultants is not part of our Historic Claims process. It is also not the Ministry's practice to investigate a claimant's background as part of our claims process.

We have identified five instances (including the White case) where the Ministry has used the services of a private investigator or external security consultant to assist in preparing for trial¹. This is because in these cases the alleged events happened many years ago, for example the 1960's and 1970's. This creates a number of challenges for the Ministry when preparing for trial as we try to locate people who were present at the time to find out what they can recall to help us determine what occurred. This work includes documentary analysis and locating and approaching potential witnesses. In all of these cases it was Crown Law who engaged the services of the private investigator or external security consultants on the Ministry's behalf. There is a limited range of professionals who have the required skills to do this type of work, including lawyers, private investigators and some people previously employed as Police officers.

Three of the five cases involved a registered private investigator who was engaged to assist the Ministry to prepare for trial. In addition to the White case one of these instances occurred approximately 10 years ago and the other before this. The other two cases involved an individual previously employed by the Police who was engaged for similar work.

¹ As the Ministry does not hold a single register of all such engagements searches were completed to identify these cases. The State Services Commission Inquiry into the use of external security consultants were advised of all of the instances where external security consultants were used to assist in preparing for trial.

We have done a more detailed search of the records we hold about these cases to more fully understand the nature of the engagement. Based on the information we reviewed we believe that these engagements were focused on locating potential witnesses and supporting the Crown to prepare for trial. There are no records to indicate that there was any consideration or use of surveillance in these cases.

The only exception to this is in the White case. Our recent, more extensive review of the White files, has identified that the scope of the work done by the private investigator did include gathering information on the White brothers and that the use of surveillance was considered, although there was no evidence that surveillance was carried out (Note: State Services Commission Inquiry into the use of external security consultants by government agencies made no finding that any surveillance occurred in this case).

In respect of any future litigation, the Solicitor-General has said publicly that she will take steps to ensure that for the future there is an effective framework in place to guide any instruction to investigators in information gathering for civil litigation. Any such instructions will be made in accordance with the guidance set out in the report of the State Services Commission Inquiry into the use of external security consultants by government agencies and the State Sector Standards of Integrity and Conduct.