

OIA-2013-1938

5 September 2013

**Mr Alex Harris**

Email: [fyi-request-1036-b2380ed2@requests.fyi.org.nz](mailto:fyi-request-1036-b2380ed2@requests.fyi.org.nz)

Dear Mr Harris

I refer to your email of 29 July 2013 requesting, under the Official Information Act 1982 (OIA), the following information:

- *a copy of the NZDF security manual, particularly material on journalists, the threat they pose and measures to be taken against them; and*
- *if the manual has been amended since its initial issuing, when the reference to investigative journalists was added, and any other changes that have been made to that material since.*

Release of the complete manual is refused under section 6(a) of the OIA on the grounds that release into the public arena, including the internet, may place New Zealand persons safety and security at risk and cause damage to New Zealand's national security interest. However, I provide the following summary of the issue, which I hope satisfies your request.

DFO 51, Volume 1, Defence Force Orders for Security (Protective Security) was issued on behalf of then Chief of Defence Force, Air Marshal Bruce Fergusson and dated 14 January 2005.

Protective security within the NZDF is the system of protective measures to safeguard information, material and personnel. This DFO identified five types of threat. They are not placed in any special order of priority, as this will depend on local circumstances. The threats are espionage; sabotage; subversion; terrorism; and non-traditional threats.

A section in the 2005 document that considers the threat posed by 'subversion' did have a reference to journalists:

- 1.28. *Subversion is defined as "Action designed to weaken the military, economic or political strength of a nation by undermining the morale, loyalty or reliability of its citizens". The threat from subversion stems not only from hostile intelligence services but also from members of subversive organisations. Organisations with extreme ideologies may try to acquire classified information, not necessarily to give to a potential enemy, but*

*because its use may bring the Government into disrepute. There is also a threat from certain investigative journalists who may seek to acquire and exploit official information for similar reasons. Government officials may also be tempted to disclose information without proper authority (leakage).*

Indeed, the section on the threat of subversion is primarily focused on overseas operational theatres. Nonetheless, the DFO has been amended with regard to the issue of the role of journalists to provide greater clarity. Paragraph 1.28 now reads:

- 1.28. *Subversion is defined as "Action designed to weaken the military, economic or political strength of a nation by undermining the morale, loyalty or reliability of its citizens". The threat from subversion stems not only from hostile intelligence services but also from members of subversive organisations. Organisations or individuals with extreme ideologies may try to acquire classified information, not necessarily to give to a potential enemy, but with the intention of distorting or selectively releasing that information in order to cause disaffection. **Simply criticising the Government or the NZDF, however, is a democratic right and does not constitute subversion, even if that criticism is not accurate.** [emphasis added]*

The other reference to journalists in this DFO was in a section that considered what is called "non-traditional threats". It contained the following reference:

- 1.37. *Government assets, including those of the NZDF, are under threat from a variety of sources beyond those traditionally regarded as hostile or otherwise of significance in terms of national security. The responsibility for providing advice to counter non-traditional threats will not always lie with the security staff and may often be provided by the appropriate Service, Defence or civil police agency. The main threats of this type are posed by investigative journalists, pressure groups, investigation agencies, criminal elements, disaffected staff, dishonest staff and computer hackers. The types of threat from these sources can be categorised in the following broad groups:*
- a. **Confidentiality compromise of politically sensitive information.**  
*This threat is presented by:*
    - (1) *Pressure groups and investigative journalists attempting to obtain sensitive information.*
    - (2) *Unauthorised disclosure of official information (leaks).*
  - b. **Exploitation of Sensitive Information.** *Debt collection agencies and investigation agencies are known to attempt to obtain personal information held in confidence by government. Investigative journalists have exploited personal tax information; they also target commercial and financial information as do criminal elements seeking financial advantage.*

This section has also been rewritten as follows:

1.37 *Government assets, including those of the NZDF, are under threat from a variety of sources beyond those traditionally regarded as hostile or otherwise significant in terms of national security. The responsibility for providing advice to counter non-traditional threats will not always lie with the security staff and may often be provided by the appropriate Service, Defence or civil police agency. The main threats of this type are posed by issue motivated individuals and groups, criminal elements, disaffected or dishonest staff members. The types of threat from these sources can be categorised in the following broad groups:*

- a. ***Compromise of politically sensitive or classified information.*** This threat is presented by:
  - (1) *Groups and individuals who attempt, through manipulative, unethical, or illegal means to obtain unauthorised access to official information including classified information.*
  - (2) *Unauthorised disclosure of official information (leaks).*
- b. ***Exploitation of Personal and Sensitive Information.*** Some people, for example, debt collection agents and investigation agencies are known to attempt to obtain personal information held by government agencies. NZDF members are to take all reasonable steps to protect official information from unauthorised disclosure.

I would note also that the examination of the concept of subversion contained in the original DFO stated explicitly:

***“The preservation of freedom of speech is fundamental [emphasis added], so that the detection and exposure of such attacks is extremely difficult and often only possible after some damage has been done.”***

This reference to the fundamental importance of the freedom of speech has been retained.

In conclusion, let me state that it is our duty as a Defence Force to serve loyally the elected Government of the day through which we directly serve the people of New Zealand. Our values as a Defence Force must be New Zealand’s values, and we must reflect the character and spirit of our nation or risk losing the confidence and support of our fellow citizens. So we hold ideals like freedom, human dignity and democracy as fundamental, because they are common to all of us collectively as a society.

The NZDF recognises the media's right to ask questions, and their legitimate and constructive role in our democracy. A free press informs; it holds people to account; and it reveals information that allows everyone to better participate in our democracy. This is why when I became aware of the mention of journalists with regard to this DFO, I asked for those sections to be re-written to make the issues

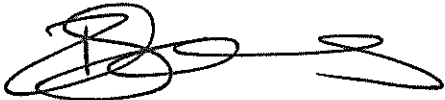
clearer. However, nowhere in the DFO does it mention that the investigative journalists are New Zealand citizens; which seems to have been erroneously assumed in recent media reporting.

There will be times when we do not agree with the media. In our world there will be times when the release of information can compromise the security and safety of our people, for example, or perhaps New Zealand's interests or those other grounds identified within the OIA. So there will be times when we believe that good reason exists for not answering a question as fulsomely as the media might have liked. Perhaps though, the challenge for us as a Defence Force is to work harder explaining the context and reason when those situations arise.

We hope the New Zealand media recognises and understands the role of their Defence Force, and the commitment and integrity of the men and women who serve our country. Together both institutions – the media and the military – are positive forces for New Zealand.

You have the right, under section 28(3) of the OIA, to ask an Ombudsman to review my response to your request.

Yours sincerely

A handwritten signature in black ink, appearing to be 'R.R. Jones', with a long horizontal flourish extending to the right.

**R.R. JONES**  
Lieutenant General  
Chief of Defence Force