

Request to Minister of Immigration for copy of list of overstayers

Legislation	Official Information Act 1982, s 9(2)(a)
Agency	Minister of Immigration
Ombudsman	Sir John Robertson
Case number(s)	W31564
Date	June 1994

Request for copy of list of overstayers—request refused under s 9(2)(a)—list held compiled for internal 'alert' purposes and not necessarily accurate—privacy interest—no countervailing public interest considerations which outweighed need to withhold

The request in this case was made by a Member of Parliament to the Minister of Immigration for a list of those persons in New Zealand who had overstayed their entry permits and were subject to the removal provisions of the Immigration Act 1987. The request was refused under section 9(2)(a) of the OIA.

A list of the precise nature requested did not exist. The New Zealand Immigration Service (NZIS) had an 'overstayers list', but it could not confirm that those named on the list were in fact overstayers without undertaking a series of checks. The list it held had been compiled solely for the purpose of assisting the NZIS to identify those whose residence status it might wish to examine more closely. In other words, it was an internal 'alert' list. Disclosure of the names would be inconsistent with Information Privacy Principle 11 of the Privacy Act, given the purpose for which the information had been collected and that the individuals concerned had not consented to disclosure. Disclosure of the names would also be likely to result in the negative inference being drawn that the individuals concerned were in New Zealand illegally. Given that the NZIS could give no guarantee as to the accuracy of the list, its release, even with a covering notation, would be likely to prejudice the privacy interests of those named on it.

Having formed the view that it was necessary to withhold the list in order to protect the privacy of those listed, consideration had to be given to the question of any countervailing

public interest considerations favouring disclosure in terms of section 9(1) of the OIA. In this respect the requester had argued that it was important to have the list of overstayers so that the names could be cross-checked against electoral rolls to ensure that ineligible voters were removed from the rolls. While there is a public interest in ensuring that only eligible voters are able to cast votes in an election, given the acknowledged inaccuracy of the list, its disclosure would not in fact achieve the requester's purpose. Nor would it provide worthwhile support for submissions the requester proposed to make to a Select Committee considering electoral issues. It was concluded that there were no countervailing public interest considerations which outweighed the need to withhold the information in terms of section 9(2)(a).

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