



OFFICE OF THE INSPECTOR-GENERAL OF INTELLIGENCE AND SECURITY

WORK PROGRAMME 2020/2021

Foreword

The Office of the Inspector-General provides independent oversight of New Zealand's two intelligence and security agencies to ensure they operate lawfully and in a manner New Zealanders would think proper. We do this predominantly by examining selected areas of the work of the New Zealand Security Intelligence Service (NZSIS or the Service) and the Government Communications Security Bureau (GCSB or the Bureau), focusing on the systems they have in place to ensure that individual human rights and other legal and ethical obligations are respected.

The Inspector-General's work programme for the forthcoming year includes continuation of some reviews begun in 2019/2020 and also includes some previously unexamined areas of agency operations. This work programme is designed to build on our office's institutional knowledge and expertise gained from previous reviews, Inquiries, and oversight activities. Building on that background we have sought with this work programme to ensure we have good breadth of coverage of the agencies' activities so that the New Zealand public have confidence that agency activities are effectively and comprehensively scrutinised.

Due to the disruption to the agencies' and our own work as a result of the COVID-19 pandemic, including the lock-down over March/April 2020, some pieces of work that were otherwise scheduled to be finished will inevitably fall to be completed in the 2020/2021 period.

This year the work programme includes a new type of operational review that we are calling a '**baseline review**'. This type of review will be used for spheres of actual or possible activity we have identified as ones that oversight in New Zealand should know more about. Baseline reviews are intended to be undertaken in a short period of time, and will likely result in a brief account in the Inspector-General's annual report. Depending on what we learn from a baseline review it may or may not lead to a more in-depth operational review or a formal assessment of the legality and propriety of any activity occurring. A baseline review might concern a form of intelligence agency activity that we consider we should understand and be able to describe in more detail, or it might be commenced to answer a more fundamental question of whether or how the agencies carry out a particular form of activity.

Consultation

This work programme has been finalised after taking account of comments from the Minister responsible for the Service and the Bureau, and comments from the agencies. The final determination of the work programme rests with the independent Inspector-General. The greater focus in this document on reviews of GCSB activities reflects the fact that for a period the position was reversed, and we now have a number of reviews of Bureau activity for completion.

Work Programme items for 2020/2021

Response to the Royal Commission of Inquiry into the Christchurch Mosque shootings

- The terms of reference for the Royal Commission provide for it to consult the Inspector-General if that will assist it to perform its duties. The Royal Commission is finalising its draft report. In addition to any consultation request, we anticipate a role for our office in assessing policy or practice changes that come about or are proposed as a result of the Royal Commission's work.

Regular and ongoing operational reviews of both NZSIS and GCSB

- **Review of all new intelligence warrants.** All intelligence warrants issued to NZSIS and GCSB are reviewed as they are granted. A comment and question process follows. Selected warrants are subjected to extended scrutiny (a "deep dive"), covering from formulation of the intelligence case to the reporting of information obtained.
- **Review of other agreements and authorisations relating to intelligence gathering.** The intelligence agencies can be authorised under the Intelligence and Security Act 2017 (ISA) to enter arrangements to obtain information from certain other New Zealand agencies. The Inspector-General reviews such authorisations and agreements as they arise. These include:
 - Direct Access Agreements for access to specific government databases;
 - Business Records Approvals and Directions, for acquisition of business records from telecommunications and financial service providers;
 - Permissions to access restricted information (eg tax records).
- **Human Rights Risk Assessments and Human Rights Risk Reviews.** The agencies commenced a body of work in 2019/20, in response to recommendations made by the Inspector-General, to review and improve guidance and policies relating to human rights risk assessments and reviews. That suite of agency work is now part of a discrete programme of review by the Inspector-General.
- **Review of assistance and cooperation agreements with foreign counterparts.** The objective of this review is to ensure that we can see and understand the full range of international cooperation agreements NZSIS and GCSB enter into for operational purposes. This standing multi-year review allows us to look at the formalities of the arrangements themselves, including how agreements are documented and monitored, as well as giving a view of the cooperative activity that occurs under them. In the forthcoming year, our primary focus will be on new arrangements entered into between the agencies and their foreign counterparts.

Agency specific operational reviews: NZSIS

- **Review of NZSIS "open source" activities.** Internationally, intelligence and law enforcement agencies increasingly use specialised tools and methods to analyse publicly available (open source) information. This review, commenced in 2019, examines how the NZSIS carries out open source activities, including how it applies the guidance in the relevant [Ministerial Policy Statement](#).

Agency specific operational reviews: GCSB

- **Review of GCSB “open source” activities.** As for the NZSIS, this parallel review is substantially progressed and carried over. It examines how the Bureau carries out open source activities, including the consistency of GCSB activities with the relevant [Ministerial Policy Statement](#).
- **Review how GCSB’s access operations are conducted.** To give effect to an intelligence warrant, GCSB may access an information infrastructure or class of infrastructures (s 69 ISA). This review is examining how the Bureau conducts access operations for the purpose of intelligence collection and analysis, including how such operations are planned, recorded and internally reviewed. It has been progressed in two stages, with the second to be completed this year.
- **Review of a selection of operations under warrant involving the GCSB sharing “raw” (unprocessed) data with partner agencies, to assess adequacy of conditions and checks on compliance.** GCSB may share lawfully collected “raw” (unprocessed) data with partner intelligence agencies, subject to conditions and compliance obligations. This review, commenced in 2019, considers whether the conditions and compliance obligations are adequate.
- **Review of access by GCSB staff to partner data.** GCSB may lawfully access intelligence data gathered by some partner agencies, subject to compliance rules which require adequate and documented justifications for access. This review will consider whether instances of access by GCSB staff to partner data met partner compliance requirements and were lawful, with particular regard to whether those instances of access were necessary, proportionate and involved the least incursion possible into privacy interests.
- **Deep-dive review of a specific GCSB warrant.** This review was well advanced in 2019 and is carried over for completion.

Baseline reviews

- Review of NZSIS intelligence/information contribution to Control Order Applications under the Terrorism Suppression (Control Orders) Act 2020.
- Review of whether the NZSIS or GCSB currently provide any support to New Zealand military operations, and if so, the nature of that support.
- Review of whether the NZSIS or GCSB undertake any data matching work, based on the acquisition of bulk personal datasets.
- Review of any NZSIS or GCSB activity and assessments relating to the Outer Space and High-Altitude Activities Act 2017.
- Review of NZSIS access to a particular network system.

Inquiries into complaints received

- Each year the Inspector-General inquires into a number of complaints received about the acts, omissions, practices, policies or procedures of the intelligence agencies.

Community engagement

- The Inspector-General and Deputy Inspector-General engage with community groups and non-governmental organisations to explain the work of the Office and keep in touch with community perspectives on issues of national security and privacy. The attack on the Christchurch Mosques has brought unprecedented attention to national security issues in New Zealand. That event and the responses to it underscore the need for this office to continue to seek out a diverse range of experiences and views in order to better understand the impact of intelligence and security activities on the community, and to assess the implications of those perspectives for our role.