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New Zealand. Inspector-General of
Intelligence and Security.

Annual report.

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Prime Minister

28 January 2004

**ANNUAL REPORT OF THE INSPECTOR-GENERAL OF INTELLIGENCE AND
SECURITY FOR FINANCIAL YEAR 2002-2003**

I have reviewed the Annual Report of the Inspector-General of Intelligence and Security for the financial year ending June 2003.

In accordance with Section 27(3) of the Inspector-General of Intelligence and Security Act 1996 (the Act), I confirm that no matters, as set out the Section 27(4) of the Act, have been excluded from the report.

There are no matters to bring to the attention of the House.

Helen Clark
Prime Minister

INSPECTOR-GENERAL OF INTELLIGENCE AND SECURITY

ANNUAL REPORT 2003

This is the seventh annual report of the Inspector-General of Intelligence and Security. It is made in compliance with the statutory requirement upon the Inspector-General to furnish a report of his activities at the end of each year ending with 30 June. This report deals with the year ended 30 June 2003. The mandate and functions of the Inspector-General are described in an appendix to this report.

General

1. As a result of the events of 11 September 2001 there has been world wide and increased concentration of effort on domestic and external security and counter-terrorism activities. The gathering, analysis and dissemination of intelligence information is an integral part of that effort. For New Zealand the events of 12 October 2002 in Bali brought closer to us the impact of terrorism. This has resulted in additional funds being provided by Government to expand and improve security systems and to counter the possibility of terrorism in New Zealand. In Parliament, legislation has been enacted in implementation of our international obligations particularly in pursuance of United Nations Security Council Resolution 1373 for prevention and suppression of terrorist acts. The Terrorism Suppression Act 2002 and the Crimes Amendment Act 2003 have become law and other bills are under consideration by Parliament. At an operational level additional security measures have been introduced at airports and establishment of a bio-chemical incident response capability are examples of the practical efforts being taken.

New Zealand intelligence agencies have also been required to take their part in the increased effort and have received additional funds to meet their widening obligation

to gather, analyse and report on information both domestic and foreign which contributes to national security.

There continues to be a need to maintain the principle, which underlies the object of the Inspector-General of Intelligence and Security Act 1996, that intelligence agencies' activities comply with the law and do not contravene the rights and freedoms of New Zealand citizens.

Interception Warrants

2. During the year I continued my scrutiny of the issue of interception warrants. My scrutiny is done irregularly but involves a review of every warrant issued to the SIS. My review of the file includes the legality of the procedures in each case. I assure myself that the proper steps have been taken in compliance with the statutory prescription for the issue of warrants. I also consider the justification for the warrant. It is not for me to second guess the desirability of the issue of any warrant but I do wish to assure myself that in each case there is a satisfactory basis on properly grounded information to support the issue of the warrant. In respect of domestic warrants that has already been done by the Commissioner and the Prime Minister. Every warrant is required to be necessary for the detection of activities which are prejudicial to security or for the purpose of gathering foreign intelligence information essential to security, and the value of the information justifies the particular interception. I have not had cause to challenge or disapprove the issue of any interception warrant.

Complaints

3. I dealt with seven complaints during the year. None of them were completed by the end of the year.

One of the complaints arose out of vetting procedures of NZSIS when a person in government employment was required to have access to confidential information.

Three other complaints arose out of adverse recommendations by NZSIS on requests under the Immigration Act.

The three other complaints related to a belief that the activities of the NZSIS had adversely affected them. My inquiries are incomplete at the end of the year. In all cases I have commenced my inquiry and am actively pursuing the matter.

I received no complaints concerning the GCSB.

Legislation

4. The Government Communications Security Bureau Act 2003 came into force on 2 April 2003. It establishes the Bureau as a department of State. The objective of the Bureau, as set out, is to contribute to national security by providing foreign intelligence, advice, assistance and protection to the Government, and its departments and instruments in relation to communications information and computer systems and to prevent surveillance by foreign organisations. The functions of the Bureau may be exercised only to pursue the objective, to protect the safety of any person and in prevention and detection of serious crime. The Bureau is authorised, with restrictions, and under warrant issued by the Minister, to intercept communications and to access computers. Interception of communications of New Zealanders is prohibited. The Director of the Bureau must furnish an annual report of its activities. That report must be furnished to the Intelligence and Security Committee and to the House of Representatives. The latter report may have excluded from it material which may prejudice security.

As with the NZSIS I will scrutinise the warrants issued to GCSB.

Archives

5. This has been an ongoing concern. Although there was work being done to promote new legislation to replace the Archives Act 1957, legislation has not yet been passed.

NZSIS has undertaken its own review of its obligations under the existing legislation and has adopted and promulgated a new policy and practice document. I was given the opportunity to consider and comment on the proposals. I approved them.

GCSB

6. Some years ago at the request of the Prime Minister, Rt Hon J B Bolger, I inquired into and reported upon the internal rules of the GCSB for the collection and reporting of foreign communications. Since completing that report I have from time to time examined the rules and the practice of the GCSB to ensure that there continue to be adequate safeguards that only foreign communications are collected. During this year I again examined the internal rules that continue in force. I am satisfied that the rules do not contravene the law and provide adequate protection to New Zealand citizens.

Immigration Act 1987


7. Pursuant to Part IVA of the Act I have a function of review of Security Risk Certificates issued by the Director of Security.

The Director of Security issued a Security Risk Certificate in respect of Ahmed Zaoui who arrived in New Zealand in December 2002 and claimed refugee status. By notice dated 27 March 2003 Mr Zaoui applied for a review of the Director's decision to issue the certificate. As the applicant's appeal to the Refugee Status Appeal Authority continued it was agreed with Counsel that my review should be delayed pending the publication of the decision of the Appeal Authority. That appeal hearing was not completed by 30 June 2003.

Administrative

8. All administrative services that I have required have been provided through the Domestic and External Security Secretariat. That has been more than adequate to my

needs. I have received every assistance that I have required willingly and promptly. I see no need to change the system which has operated satisfactorily for seven years.



Laurie Greig
Inspector-General of Intelligence and Security

16 January 2004

APPENDIX

Mandate and Functions of Inspector-General of Intelligence and Security

1. The Office of the Inspector-General of Intelligence and Security (IGIS) was established by the enactment of the Inspector-General of Intelligence and Security Act 1996 on 1 July 1996. In accordance with that Act, I was appointed by the Governor-General on the recommendation of the Prime Minister following consultation with the Leader of the Opposition to the office of the IGIS on 1 December 1996 and on 13 March 2003 for a further term of three years.
2. The object of the Act and of the office of the IGIS is to assist the Minister responsible for an intelligence and security agency in the oversight and review of that agency. In particular the IGIS assists the Minister to ensure that the activities of an agency comply with the law. A further object is to ensure that complaints about an agency are independently investigated.
3. The intelligence and security agencies subject to the Act and the IGIS's responsibilities are the New Zealand Security Intelligence Service and the Government Communications Security Bureau. The Minister responsible for these agencies is the Prime Minister.
4. The IGIS is authorised to inquire into complaints by New Zealand persons and persons employed or formerly employed by those agencies who claim to have been adversely affected by the activities of an agency. The IGIS undertakes other inquiries into the activities of those agencies at the request of the Minister or on his own motion. Such inquiries may examine the propriety of particular activities of an agency. In addition the IGIS may carry out a programme or programmes of general supervision of those agencies.
5. Under Part IVA of the Immigration Act 1987 as amended by the Immigration Amendment Act 1999, the Inspector-General of Intelligence and Security has a function to review the decision to make a security risk certificate issued by the Director of Security. Under the Protected Disclosures Act 2000, the Inspector-General of Intelligence and Security is the only appropriate authority in respect of protected disclosures to be made by employees of the security agencies.
6. The postal address of the Inspector-General is Executive Wing, Parliament Buildings, Wellington. The telephone number is 04 471 9571 and the fax number 04 473 2789. Under the Act complaints to the Inspector-General are made in writing addressed to the Inspector-General C/- The Registrar or Deputy Registrar of the High Court at Wellington.