



**INSPECTOR-GENERAL OF
INTELLIGENCE AND SECURITY**

THE HON D.P. NEAZOR CNZM

**INSPECTOR-GENERAL OF INTELLIGENCE AND SECURITY
ANNUAL REPORT 2012**

1. This report covers the work of the Inspector-General for the 12 months ended 30 June 2012 in relation to the New Zealand Security Intelligence Service and the Government Communications Security Bureau.
2. The Inspector-General's work is one of oversight – not the control of either intelligence agency. It is an independent office, the Inspector-General having tenure for three years (which is renewable). Appointment to it is made on the recommendation of the Prime Minister following consultation with the Leader of the Opposition.
3. I was originally appointed on the recommendation of the Rt Hon Helen Clark and presently hold re-appointment on the recommendation of the Rt Hon John Key, for a term expiring in June 2013.
4. The work done by the Inspector-General has two main facets:
 - (i) dealing with complaints by a New Zealand person or a person who is an employee or former employee of an intelligence and security agency that that person has or may have been adversely affected by an act, omission, practice or policy of an agency;
 - (ii) inquiry into any matter that relates to the compliance by an intelligence and security agency with the law of New Zealand.
5. Unless the agencies generate a large number of complaints, which has not been the

New Zealand experience, that aspect of the work does not require a number of people to carry it out. Ascertaining the facts and forming a judgment as to fairness or reasonableness of the agency's actions are the primary requirements of the exercise.

6. The compliance-related activity is driven by a complainant, or the work programme approved by the Minister, or on occasions by a request from the Minister to examine a nominated part of an agency's operation.
7. Important aspects of both lines of inquiry are:
 - a. that the person having oversight is aware of how each agency works in general terms and what it does, including its external relationships;
 - b. that there is trust and communication between the operating agency and the oversight person
 - c. recognition that the principal importance of the oversight task is to help maintain public confidence in the integrity of the national security system, established by legislation, and
 - d. that the oversight person encourages the development of controls and attitudes of compliance within the agency on the basis that such internal activity is at least as likely to serve the public interest as external oversight.
8. In 2009 I recommended in a report to the Minister in charge of the intelligence agencies that consideration might be given to a particular procedure to be followed if a Member of Parliament should engage in any activity which it was thought should be the subject of inquiry by the NZSIS. A Memorandum of Understanding was completed between the Speaker on behalf of Members and the Director of Security. No action under it has been required.
9. During the year the NZSIS reported to me three events which raised concerns about compliance. Two of the reports recorded mistakes extending over a few days in telecommunications interception arising from similarity of names and one related to misuse of equipment. In each case the error was discovered by officers of the

Service and rectified, with action taken to prevent access to anything that had been intercepted. The internal discovery and external reporting were both in my view significant pointers to the culture of the agency.

Complaints:

10. Eleven complaints were made in the year under review.

- a. six related to adverse vetting recommendations. Of those, two were discontinued, one was not upheld and there were still three under consideration as at 30 June 2012.
- b. one related to an internal employment matter involving an allegation of harassment and a claim about costs. The complainant, who had given lengthy service, had reached an agreed settlement in respect of severance but in my view the harassment allegation should be examined. Although that consideration was not completed as at 30 June it had by then involved a substantial amount of inquiry about relevant events including an investigatory visit out of Wellington, examination of such records as existed of particular events, assembly of internal email traffic, consideration of the record of an internal inquiry, responses to the complainant about particular aspects, and recommendations about improvement of some internal procedures and recording. A recommendation was made that a relatively small extra sum should be paid. There are still one or two side issues to be looked at.
- c. two relating to official information requests were not upheld. One relating to a Privacy Act request could not produce a satisfactory result for the complainant; the event was well in the past and the material was no longer available;
- d. one relating to surveillance was not upheld;
- e. one about a vetting/employment issue involving the GCSB was upheld in part.

A vetting complaint enquiry from a previous year was discontinued when it appeared that the complainant no longer wished to pursue it.

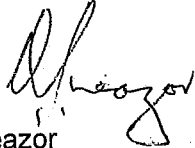
Programme of Work

11. All interception warrants, (now called intelligence warrants) issued to the NZSIS have been the subject of review after the event. As an experiment, an interception warrant was selected by me and the work done under its authority was discussed with the relevant officers, including a linguist. Amongst other things, the exercise demonstrated that coverage was terminated when it became clear that a particular person was not engaged in the activity to which the Warrant related.
12. As a result of inspection of NZSIS warrants, a number of questions were raised about particular considerations taken into account in determining the purpose to be served by the issue and execution of intelligence warrants. That exercise led to the production internally of a detailed report on several of the Service's aims and methods which provided the occasion for review and consideration of whether, in some respects, the Service's approach might usefully be modified. The report and the topics covered in it cannot be discussed in more detail without damaging the Service's ability to carry out its tasks. Some matters will be the subject of further consideration.
13. As required by s.5AAC of the New Zealand Security Service Intelligence Service Act 1969 (inserted on 13 July 2011), a register of delegations involving warrants has been kept and inspected. No entries, including directions or conditions, caused further enquiries to be put in hand.

Finance:

14. As advised by the Ministry of Justice, the expenditure on the Inspector-General's

operation has been \$116,900 covering the Inspector-General's remuneration and expenses and administration and support of the office. By comparison in the 2011 year a total of \$129,000 was spent.



D P Neazor

Inspector-General

November 2012