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New Zealand. Inspector-General of
Intelligence and Security.

Annual report.

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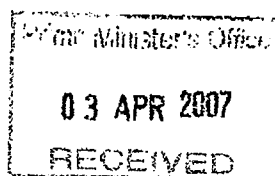
INSPECTOR-GENERAL OF
INTELLIGENCE AND SECURITY

THE HON D.P. NEAZOR CNZM

SCANNED

2 April 2006

The Right Honourable Prime Minister
Parliament Buildings
WELLINGTON



Dear Prime Minister

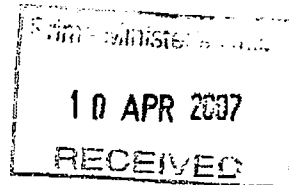
ANNUAL REPORT 2006

I enclose my annual report for the year ended 2006. It is made in compliance with my obligation under the Inspector-General of Intelligence and Security Act 1996.

I regret that by oversight it is so late.

Yours faithfully

D P Neazor
Inspector-General



With Compliments

*Inspector-General
of Intelligence and Security*

Annual Report 2006

Erratum paragraph 1, Line 4:

2005 should read 2006

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INSPECTOR-GENERAL OF INTELLIGENCE AND SECURITY

ANNUAL REPORT 2006

1. This is the tenth annual report of the Inspector-General of Intelligence and Security made in accordance with Section 27 of the Inspector-General of Intelligence and Security Act 1996. The report relates to the year ended 30 June 2005. The mandate and functions of the Inspector-General are set out in detail in an Appendix.

General Workload

2. In my term, most of the workload to date has been by way of response to events. The amount of time required has continued to be more than was anticipated when I was appointed. It seems likely that there will be much less time required once the Zaoui review is completed.
3. During the year I received eight complaints. All related to the New Zealand Security Intelligence Service. Two of them were internal staff-related disputes. Two related to vetting outcomes. Three related to alleged misconduct by Service officers in the past. One was a repetition of a complaint made to the Privacy Commissioner and was not taken up in the Inspector-General's office.
4. In respect of the others:
 - of the vetting complaints, one complainant did not pursue the matter. In the other case the complaint was not upheld. It had raised the question of the Service's approach when the person concerned was a recent arrival in New Zealand and had no history here.
 - of the staff-related disputes, one, after enquiry, was not upheld. In the other, which related to the end of service of a staff member, it was agreed that my decision in respect of the terms of end of service would be accepted, and it was.

- the three complaints concerning conduct of the Service were not upheld. One involved an attempt to reopen a complaint about events which happened almost thirty years ago. The second was of believed, but non-specific, surveillance, of which there was no evidence. The third was an allegation from overseas of non-specific wrongdoing by the Service. That complainant did not pursue the matter when asked for details.
5. I was consulted about the review of the Immigration Act in case issues might arise in particular cases in respect of which involvement of the Inspector-General of Intelligence and Security might be an appropriate response.

Interception Warrants

6. The statutes governing the work of the Intelligence Agencies provide for the issue of authorisations for the interception of communications, or where relevant the seizure of documents. Authority for the issue is in every case in the hands of the Minister in charge of the particular agency. There are statutory criteria for the issue of authorisations. In every case the head of the agency must provide information on oath on which the Minister can be satisfied that those criteria are met.
7. The Inspector-General is required to review from time to time the effectiveness and appropriateness of the procedures adopted by each of the Intelligence and Security Agencies to ensure compliance with the statutory provisions relating to the agency in relation to the issue and execution of interception warrants.
8. I examined all authorisations which had been issued to the two agencies during the year. My function is not to say whether an authorisation should be or should have been granted but to check that the information provided to the decision-maker has covered the statutory criteria and, particularly when the Commissioner of Security Warrants has not been involved, has been enough to justify the decision sought.

9. I have received satisfactory replies to any query raised about any authorisation. There have been few such queries because both agencies take care to provide extensive relevant information to the decision-maker.
10. I have seen nothing to suggest that any interception authorisation fell outside the statutory authority or that the procedures used are likely to have led to a wrong decision.

Overseas Relationships

11. The Intelligence Review Agencies of the United Kingdom, United States of America, Canada, Australia, New Zealand and South Africa meet in a short conference every two years. Review Agencies from other countries are represented by invitation, normally at the instance of the current host country with such consultation as that country thinks necessary. The 2006 Conference was scheduled for South Africa, and that for 2008 for New Zealand.

Security Risk Certificate: Ahmed Zaoui

12. Work continued on this matter throughout the year. Part 4A of the Immigration Act provides for the Director of Security to make a Security Risk Certificate on the basis of classified security information and other relevant information. Provision is made for the Inspector-General on application to review such a certificate. In the report for the year ended June 2005 I recorded the appointment of a Special Advocate for this case and the purpose that appointment is designed to serve. The Queen's Counsel appointed has since had another barrister appointed to assist him, so that Mr Zaoui now has the assistance of his private counsel and two special advocates.
13. The judgments of the Courts dealt with a number of issues relating to the review. One was Mr Zaoui's right as the person the subject of the certificate to be told as fully as possible, without disclosing classified security information, of the basis for the making of the certificate so that he could make whatever response he wished, including calling witnesses.

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14. Because this is the first such certificate issued in New Zealand a number of procedural issues have had to be resolved. Decisions in comparable situations in the United Kingdom and Canada have been of assistance. The disclosure of information to the extent the Courts ruled must be made has proved to be a tortuous and long drawn out task requiring assessment of and individual decisions in respect of a good deal of documentary material, and the preparation of summaries of much of it.

Servicing

15. I have been provided with satisfactory independent accommodation and staffing for day-to-day needs. The Ministry of Justice has continued to provide assistance as a supporting agency whenever asked to do so. Towards the end of the 2006 reporting year it became necessary to engage the services of a barrister to act as required to assist me in the Zaoui review. The Ministry of Justice also seconded to me on a part-time basis a legally qualified officer to carry out a review of particular material relating to it.

Funding

16. The provision of funds for the Inspector-General's work is arranged as agent by the Ministry of Justice. The cost of my operations for the year, as advised by the Ministry, has been \$417,527. Of that amount \$180,909 was incurred costs related to the Zaoui review. A further \$57,410 was a contribution to costs of earlier litigation in respect of it. The balance of \$179,209 for general expenses includes remuneration for my work also in respect of that review.



D P Neazor
Inspector-General

April 2006

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. The Inspector-General is required to have previously held office as a Judge of the High Court of New Zealand. He or she is appointed by the Governor-General on the recommendation of the Prime Minister following consultation with the Leader of the Opposition. The appointment is for a term of three years and may be renewed. The Inspector-General is subject to removal or suspension from office by the Governor-General for defined cause, upon an address from the House of Representatives.
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 or her 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 the 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 PO Box 5609, Wellington 6145. The telephone number is 04 473 8671 and the fax number is 04 473 8534. 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.