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OFFICE OF THE INSPECTOR-GENERAL OF INTELLIGENCE AND SECURITY

28 May 2014

Report – 2013/2014-02

ERRORS INQUIRY: GCSB 2012/2013 ANNUAL REPORT

The attached report is the result of an inquiry by the Inspector-General of Intelligence and Security (IGIS) under section 11(1)(a) of Inspector-General of Intelligence and Security Act 1996 (the “Act”) into erroneous numbers which had appeared in the GCSB 2012/2013 Annual Report. The numbers relate to Interception Warrants and Access Authorisations in force and issued during the year ended 30 June 2013.

In accordance with section 25A of the Act, a copy of this report is being published on the IGIS website.

Inspector-General of Intelligence and Security
PO Box 5609
Wellington 6145

Cheryl Gwyn
Inspector-General of Intelligence and Security

Level 5, Freyberg House, 2 Aitken Street, Wellington, New Zealand
P O Box 5609, Wellington 6145
Phone: (04) 439 6721

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INSPECTOR-GENERAL OF
INTELLIGENCE AND SECURITY

THE HON R ANDREW McGECHAN QC

2 May 2014

BY HAND

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| Minister in Charge of GCSB Rt Hon The Prime Minister Parliament Building WELLINGTON | The Director GCSB P O Box 12209 WELLINGTON |
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Dear Minister

2012/13 ANNUAL REPORT: ERRORS INQUIRY: REPORT

The Inquiry:

1. On 21 February 2014 I instituted an Inquiry under s.11 (1)(a) of my Act into erroneous numbers which had appeared in the GCSB 2012/13 Annual Report. The numbers related to Interception Warrants and Access Authorisations in force and issued during the year ending 30 June 2013.
2. My conclusions appear at paragraph 21. I have no recommendations to make.

The Law as to Annual Reports:

3. The Government Communications Security Bureau Act 2003 s.12 (as amended with effect from 26 September 2013) requires the Director to deliver an Annual Report to the Minister as soon as practicable after 30 June in each year. The report contains classified information. I term it the "*classified report*".
4. That Annual Report must include statements under s.12(3):
 - Whether or not Interception Warrants were in force during that year;
 - If any Interception Warrants were issued during that year, the number issued;
 - Whether or not Access Authorisations were in force during that year;

- If any Access Authorisations were issued during that year, the number issued.

The requirements as to numbers issued was a new requirement in 2013.

5. The Minister, as soon as practicable after receipt, must submit a copy of the classified Annual Report to the Members of the Intelligence and Security Committee (ISC), a statutory Parliamentary Committee with defined powers.
6. The Minister may delete material from the classified report on grounds related to security, and certain other grounds, before it is presented to the House.
7. Within 30 sitting days of receipt, the Minister is required to present a copy of the report, less any such deletions, to the House. I term this the "*unclassified report*".

The Errors:

8. The erroneous numbers relating to Warrants and Access Authorisations for the year ending 30 June 2013 given in the unclassified Annual Report, and the correct numbers later ascertained and advised are as follows:

| Instrument | Annual Report (erroneous) | Correct |
|-----------------------------|---------------------------|---------|
| Warrants in force | 7 | 11 |
| Warrants issued | 4 | 5 |
| Access Authorities in force | 14 | 26 |
| Access Authorities issued | 9 | 11 |

9. It came to light during this Inquiry that there was an error, albeit different, in the numbers contained in the classified Annual Report also. The numbers in that version are classified but do not differ significantly from the erroneous figures noted above.

Why did this happen?

10. I have carried out an investigation into how this error came about and, against that background, whether there is a risk of recurrence. I prepared a detailed draft Report, and obtained comment from the GCSB as the law requires. I consider there are no fundamental differences as to basic causes, although my overall assessment is perhaps somewhat harsher than the GCSB and some individuals would prefer. The problem which has emerged is that any worthwhile account of the processes involved carries severe security risks. In that light, and particularly as this is an own-motion inquiry in which I have a fuller discretion to weigh benefits and risks, I have decided I will not go into detail in this Report. This is subject to one qualification: should you as Minister so require, I or my successor will give an additional oral briefing, at which the Director should also be present.

The Erratum:

11. Where a report has been presented to the House, and an error later emerges, there is a requirement that a so-called "*Erratum*" must be presented.
12. By an unclassified letter dated 19 February 2014, received 20 February 2014, GCSB advised me that an error had occurred, an Erratum would be presented, the GCSB view of the reasons for the error, and the steps which were being taken to prevent recurrence. I am grateful for this proper advance notice. It is due to the GCSB to record that its view of the reasons for the error aligns with that which I have now reached independently.
13. On 21 February 2014 the Minister presented the Erratum to the House. It stated, in summary, referring to the unclassified version and of course to the 2012/2013 year:
- Interception Warrants in force: 11
 - Interception Warrants issued: 5
 - Access Authorisations in force: 26
 - Access Authorisations issued: 11
14. I gain no assistance from statements made by an assortment of political figures and interested persons which followed.

Risk of recurrence:

15. This has been a severe experience for the GCSB. I have no doubt that for the immediate years to come there will be a real concentration on the need to take care. That of course is not enough. Particularly as time passes, and personnel change, there is a need for systems in place which provide sufficient safeguards.
16. The GCSB as at this point in 2014 is better placed technically than it was in 2013.
17. Likewise, GCSB now understands the correct treatment for Warrants and Authorisations which are renewed during the course of a year. It is on record.
18. New processes are in place to ensure accurate recording,
19. I add that it was my intention, noted in drafts prepared before this error emerged, to include in my routine inspection schedule a yearly reconciliation of numbers given in the latest Annual Report to the numbers in GCSB records. That intention remains. Although that audit will be retrospective, it is an additional incentive and ultimate safeguard.
20. Nothing involving human contact can be beyond all doubt. However, given the systems developed and now in place I consider the risk of recurrence is negligible. No further action appears required.

Conclusions:

21. The error in the unclassified 2012/2013 Annual Report presented to the House arose in part from a definitional misunderstanding and in large part from a legacy record keeping problem. Both have been remedied, and adequate safeguards are or are being put in place to avoid recurrence. The risk of any recurrence is negligible.
22. I have no recommendations to make.

Inspector-General of Intelligence and Security
PO Box 5609
Wellington 6145

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Hon R Andrew McGechan QC
Inspector-General of Intelligence and Security