



## OFFICE OF THE INSPECTOR-GENERAL OF INTELLIGENCE AND SECURITY

### WORK PROGRAMME 2021-22

#### INTRODUCTION

The Inspector-General of Intelligence and Security (IGIS) provides independent oversight of New Zealand's intelligence and security agencies, the New Zealand Security Intelligence Service (NZSIS or 'the Service') and the Government Communications Security Bureau (GCSB or 'the Bureau'). IGIS oversight is directed at ensuring the agencies operate lawfully and in a manner New Zealanders would think proper.

Under the Intelligence and Security Act 2017 (ISA), which governs the agencies and establishes the IGIS' mandate, the IGIS must prepare and publish an annual work programme. The IGIS must consult the Minister (or Ministers) responsible for the agencies on the proposed work programme and have regard to any comments received. The IGIS is not required to consult the agencies but invites their comment as a courtesy. The final determination of the work programme rests with the IGIS.

Intelligence oversight involves a combination of repeating tasks (such as reviews of warrants issued to the agencies) and special projects (such as reviews of, or inquiries into, specific areas of agency activity). Reviews and inquiries commence at different times through the year and vary significantly in duration, so work programmes typically combine new items and work carrying over from previous years. The IGIS may also establish new reviews or inquiries as he or she sees fit, whether or not they have been anticipated in the published work programme. The 2021-22 work programme includes examples of both scheduled and unscheduled reviews carrying over from 2020-21, as well as new reviews and an inquiry to commence in the coming year.

IGIS reviews are focused on particular areas of agency activity that appear to require attention, or are 'baseline' reviews aimed at establishing the nature and scope of agency activities in areas that have not yet been examined closely for oversight purposes. The 2021-22 work programme included both types of review. For the first time it also includes "possible" reviews of two specified areas of agency activity. These have been incorporated to provide flexibility, recognising that planned work can be interrupted, delayed or advanced unpredictably.

## 2021-22 WORK PROGRAMME

### Reviews

#### *Both agencies*

- **Data matching.** A baseline review of agency data matching activities, based on the acquisition of bulk personal datasets, was proposed in the 2020-21 work programme. It did not commence due to other priorities and has been rescheduled for the coming year.
- **Contribution to Control Order applications under the Terrorism Suppression (Control Orders) Act 2019.** This baseline review was proposed in the 2020-21 work programme, but no control order applications were made.

#### *NZSIS*

- **Information sharing with Police.** Although not in the 2020-21 work programme, this review was begun in 2020-21 on the Inspector-General's initiative. It has two components:
  - A review of how NZSIS conducts joint counter-terrorism operations with the Police; and
  - A review of a specific instance of NZSIS sharing information on possible crime with the Police.
- **Human source recruitment and management.** A baseline review of this area of Service activity.
- **Target discovery projects.** NZSIS has increased its target discovery effort, which is directed at finding leads for security investigations. This review will examine recent activities in this area.
- **Use and sharing of vetting information.** The Service's use of information provided to it by people being vetted for security clearances is subject to strict statutory controls. This review will examine the Service's policies and practices for compliance with these controls.

#### *GCSB*

- **Access to partner data.** This review is examining the Bureau's systems and practices for ensuring that its access to intelligence data gathered by certain partner agencies meets partner compliance requirements and is properly justified. The review began under the 2020-21 work programme and will be completed in the coming year.
- **Raw data sharing.** This review examines the Bureau's systems and procedures governing any sharing of lawfully collected "raw" (unprocessed) data with partner

agencies. It was initiated in 2019 then paused in 2020 due to other priorities and will be completed this year.

- **Operations enabling access to information infrastructures.** This baseline review will examine the Bureau's conduct of certain operations enabling it to access information infrastructures for intelligence gathering. The operations concerned are classified to an extent that precluding more specific description or reporting in a public document.
- **Target discovery activity.** This review will examine the Bureau's approach to target discovery, which (as noted above regarding a similar proposed review of Service activity) is directed at finding leads for further investigation.
- **Collection against New Zealanders.** This review will examine the Bureau's systems and procedures for ensuring it complies with legal and warrant controls when collecting intelligence on New Zealand citizens and permanent residents.

#### **Possible reviews**

- **NZSIS – A specific form of online intelligence gathering operation.** This review would examine Service conduct of a method of targeted intelligence collection through internet operations.
- **GCSB – Activity in pursuit of intelligence on transnational organised crime.** Collection of intelligence on transnational organised crime is a Government intelligence priority. This baseline review would cover Bureau activity in this area.

#### **Operational inquiry**

##### *GCSB support to a foreign partner agency signals intelligence system*

This inquiry will examine the history and current state of GCSB's support to a signals intelligence system deployed by a foreign partner agency, with particular attention to the approach GCSB took to approval and authorisation of its contribution.

#### **Inquiries into complaints received**

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

#### **Regular review and comment activity**

- **Intelligence warrants.** The IGIS reviews all intelligence warrants issued to the Service and the Bureau. This will continue, although improvements to warrant applications and resolution of interpretive issues that arose after the enactment of the ISA have reduced the intensity of the process. Selected warrants may be subject to extended scrutiny as necessary.

- **Agreements and authorisations.** The IGIS reviews, or is consulted on, a range of legal instruments and agreements that enable intelligence gathering. These include:
  - Direct Access Agreements, enabling agency access to specified government databases;
  - Business Records Approvals and Directions, authorising agency acquisition of information from telecommunications and financial service providers;
  - Assistance and cooperation agreements with foreign partner agencies.
- **Compliance incidents.** Both agencies encourage staff to self-report inadvertent breaches of law or policy controlling intelligence activity. These incidents are examined to identify any systemic issues and the IGIS is notified. The IGIS reviews the agency's response and seeks further information and assurance where necessary.
- **Human Rights Risk Assessments and Human Rights Risk Reviews.** In 2019-20 the agencies began reviewing and improving guidance and policies relating to human rights risk assessments and reviews. These materials have been subject to review and comment by the Inspector-General. This work will continue into 2021-22 as revision of a final element of the policy framework is completed.

#### **Engagement with legislation and policy development**

The IGIS does not have a policy function but has unique knowledge of intelligence gathering and so is regularly invited to comment on or contribute information to relevant legislation and policy processes. In 2021-22 the IGIS anticipates contributing in this way to (at least):

- Law and policy reform in response to the recommendations of the Royal Commission of Inquiry into the terrorist attack on Christchurch masjidain on 15 March 2019;
- Other legislation, including current Bills on the use of national security information in legal proceedings and on protected disclosures ('whistleblowing');
- Reviews of Ministerial Policy Statements issued under the ISA.

#### **Community and peer engagement**

The IGIS engages with civil society, other integrity agencies (eg the Privacy Commissioner and Ombudsman) public sector peers and the intelligence sector to explain the work of the office and keep in touch with external perspectives on national security and privacy. The IGIS also engages with news media to the extent possible.