

WORK PROGRAMME 2023-24

INTRODUCTION

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

The work of my office is generally a combination of repeating tasks, such as reviews of warrants issued to the agencies, and self-initiated reviews or inquiries that examine specific areas of agency activity. The Intelligence and Security Act 2017 (ISA) requires me to prepare and publish a work programme each year. This, along with my annual report and public reports of inquiries and reviews, is an important opportunity to inform the public of what oversight involves. Some details cannot be published, to avoid disclosing sensitive information. I aim to be as transparent as possible, however, so the public has some assurance that oversight of the agencies is active and wide-ranging.

As we approach the end of 2022-23 my office has completed or is finalising classified reports on a number of reviews and on an own-motion inquiry into the GCSB’s support to a signals intelligence system deployed by a foreign partner agency. The inquiry has been a substantial project involving examination of records spanning more than 10 years, including thousands of emails. In the early part of 2023-24 I expect to conclude reviews on topics including open source intelligence collection, target discovery and the acquisition and use of bulk personal datasets. Topics for future review include the NZSIS’s use of a method of targeted intelligence collection through internet operations and its approach to investigating “insider” threats, and the GCSB’s intelligence collection on transnational organised crime.

In identifying review topics I aim to cover areas of compliance risk, follow up on issues arising from past reviews and inquiries, and keep abreast of changes in the nature and scope of agency activities. This includes doing ‘baseline’ reviews of activities my office has not previously examined in depth. Over time I aim for balanced scrutiny of both agencies, though the number of reviews relating to each is not necessarily equal from year to year.

Experience has shown that the objectives and scope of a review often require adjustment as it progresses, particularly when investigating a new topic. My work programme is therefore a list of projects under way and matters I propose, at the time of writing, to look into. I keep it under active review as the year progresses.



Brendan Horsley
Inspector-General of Intelligence and Security

OPERATIONAL INQUIRY

In progress

- **GCSB support to a signals intelligence system deployed by a foreign partner agency:** This inquiry has examined the history of GCSB's support for a partner agency system, with particular attention to its approval and authorisation. At the end of 2022-23 my office was finalising a classified report. I will produce a public report in 2023-24.

INQUIRIES INTO COMPLAINTS

Each year I investigate complaints received about acts, omissions, practices, policies or procedures of the intelligence agencies. These investigations vary widely in duration and the resources required. By law they must be investigated in private, though public reporting of a completed inquiry is required to the extent possible.

At the time of preparing this work programme one complaint inquiry begun in 2022-23 remained under way, likely to be completed in early 2023-24.

REVIEWS

In progress

At the end of 2022-23 classified reports on the following reviews were complete:

- **Issue and execution of an NZSIS counter-terrorism warrant:** A review of a significant warrant and its execution.
- **Use and sharing of vetting information (NZSIS):** A review of the NZSIS's approach to compliance with statutory restrictions on the use and disclosure of vetting information.
- **Acquisition and use of bulk personal datasets (GCSB)** This review will be followed by a review of the same activity by NZSIS. These reviews were initially scoped as reviews of "data matching" but revised as a result of preliminary research.

Classified reports on the following reviews were in preparation:

- **Support to military operations (GCSB and NZSIS):** Reviews of how each agency incorporates human rights considerations into its intelligence support to military operations.
- **Open source intelligence collection (GCSB and NZSIS)** Baseline reviews of each agency's collection and use of publicly available (open source) information, including use of specialised tools and methods.
- **Human source recruitment and management (NZSIS):** A baseline review of the Service's approach to the recruitment and management of human sources.

- **Counter-terrorism coordination with Police (NZSIS):** This review began in 2020/21 but paused for the coordinated review of the actions of the NZSIS and other agencies in relation to the 2021 terrorist attack at New Lynn Countdown.
- **Issue and execution of an NZSIS seizure warrant:** A review of a warrant authorising seizure of data and subsequent activity.
- **Target discovery (GCSB and NZSIS):** Reviews of each agency's approach to target discovery.
- **Human rights risk assessments (GCSB and NZSIS):** A review of selected examples of these assessments, which assess risk in information-sharing with foreign parties.
- **Raw data sharing (GCSB):** A review of the Bureau's systems and procedures for sharing raw (unevaluated) data with partner agencies.

The following review was in progress:

- **Acquisition and use of bulk personal datasets (NZSIS):** A review of the NZSIS's approach to the acquisition and use of bulk personal datasets.

Proposed review topics

At the time of preparing this work programme I am considering reviews on the following topics:

- **Execution of class warrants (NZSIS and GCSB):** With both agencies now operating predominantly under class warrants, a review could include how they determine whether a person falls within a class, how that determination is reviewed, and compliance controls.
- **A specific form of online intelligence gathering operation (NZSIS):** A review (or reviews) in this area would examine how NZSIS uses a method of targeted intelligence collection through internet operations.
- **Collection of intelligence on transnational organised crime (GCSB):** This would be a baseline review of this niche area of GCSB intelligence collection.
- **Counter-intelligence / insider threat investigations (NZSIS):** A baseline review of NZSIS' approach to establishing, managing and reporting these investigations.
- **Use of Business Records Directions (NZSIS):** A review of NZSIS procedures and justifications for seeking and issuing business records directions, under Part 5 of the Intelligence and Security Act 2017.
- **New Zealanders and International Terrorist Screening Center Databases (NZSIS):** This review would examine the Service's engagement with international terrorist screening databases, including 'No Fly' lists, in relation to New Zealanders.

- **Assessment of security risk in meeting transparency requirements (GCSB and NZSIS):** A review would examine the agencies' approaches to the assessment of security risk from official publication or disclosure of information on their activities, including in response to requests under the Official Information Act 1982 and the Privacy Act 2020.
- **Use of artificial intelligence (GCSB and NZSIS):** A baseline review would examine what use each agency makes, or is preparing to make, of artificial intelligence.

One review proposed in past work programmes (GCSB collection against New Zealanders) is not being progressed, as the central questions have been addressed by changes in GCSB policy and routine interaction with the Bureau over warrants and compliance incidents.

REGULAR REVIEW AND COMMENT

- **Intelligence warrants.** My office reviews all intelligence warrants issued to the Service and the Bureau.
- **Agreements and authorisations.** My office 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 I am notified of those confirmed as breaches requiring investigation. My office reviews the agency's response and seeks further information and assurance where necessary.
- **Progress on recommendations.** Where I have made (and the agencies have accepted) recommendations for change to systems, policies and procedures, my office engages with the agencies on implementation.

Engagement with ISA reform

In the past year I was consulted by the independent reviewers of the Intelligence and Security Act 2017. My office continues to provide input, on request, to the policy process led by the Department of the Prime Minister and Cabinet. This includes advice on matters relating to oversight of the intelligence and security agencies.

Public and peer engagement and reporting

I engage regularly with other New Zealand integrity agencies, such as the Privacy Commissioner and Ombudsman, public sector peers, the intelligence sector and public interest groups to explain the work of my office and keep in touch with external perspectives on national security and privacy.

I also engage with intelligence sector oversight bodies internationally, particularly those of the other 'Five Eyes' countries (Australia, Canada, the United Kingdom and the United States). In the coming year my office is coordinating a working group with representatives of those bodies on work programming and oversight methodology. My staff will also be contributing to working groups on automated data processing and artificial intelligence, and transparency and public engagement.

My office maintains a website, recently redesigned, and is reviewing and refreshing its content in the coming year. We are also working on a public engagement plan. I will continue to respond to news media enquiries to the extent possible.