

Summary of the Inspector-General's report (28 April 2010)

18 June 2010

- Prime Minister the Hon. John Key today released a follow-up report from the Inspector-General of Intelligence and Security, the Hon. D.P. Neazor, about personal files and other records held by the New Zealand Security Intelligence Service (NZSIS).
- The Inspector-General's report reveals that the NZSIS has addressed all the recommendations from last year's report, has good current practices and systems in place, and is working on further protocols for dealing with information.
- The two main issues in the report are firstly about the files kept on Members of Parliament, and secondly about collecting, retaining and destroying personal records.
- Most of the Inspector-General's report deals with NZSIS practices around the collection, retention and destruction of records. He is satisfied with current and proposed practices.
- The Inspector-General reported that all the NZSIS files relating to Members of Parliament have been closed and are subject to strict access protocols. The NZSIS and representatives of the Speaker of the House have discussed a Memorandum of Understanding (MOU) to cover situations where security information may, in rare circumstances, need to be collected about a Member of Parliament. The MOU will ensure the continued protection of parliamentary privilege in such circumstances. The Inspector-General has been consulted on the draft MOU.
- The report reveals details about the NZSIS's new investigation framework – a tool set up to ensure that NZSIS priorities and legislation continue to direct the collection of information - and its information management policy. Together these sharpen the focus of collecting information in order to concentrate on the statutory criteria and relevant events rather than the activities of particular people. The Inspector-General concludes that these two lines of control, which have been underway for some time, should avoid any unnecessary collection of information provided a disciplined approach is followed.
- The report also reveals information about the retention practices of the NZSIS, noting that intelligence can continue to be valuable for a number of years after the collection. The NZSIS's information management policy proposes automatically closing records five years after collection – if they have remained inactive over that time and there is no suggestion of security interest. The Inspector-General noted that NZSIS practices have been tightened to incorporate changes from paper to electronic records.
- The question of whether to destroy or archive personal records is complex for an intelligence agency. The Inspector-General's report notes that privacy considerations would support destruction of personal information, while historians and others seek retention of information of perceived historical value. He anticipates that the NZSIS will in time achieve disposal and in many cases destruction where the Public Records Act allows it.

- The report outlines the difficulties and challenges faced by an intelligence agency because of the very nature of intelligence. The Inspector-General includes a description of intelligence from a 2009 UK report which says in summary that “secret” intelligence is information that is lawfully gathered without the consent of the target. It may come from an individual, an organisation, or a country. It has to be assessed and analysed to decide its reliability and may be fragmented, only giving a partial picture. Information will have varying degrees of value over time including changes when associated with later acquired information. Intelligence issues require a development of a full picture over time.
- This kind of detailed review and report by the Inspector-General of Intelligence and Security offer oversight of an intelligence agency which by the very nature of its work must keep much of it hidden.

Background – last year’s report

Last year the Prime Minister commissioned and released a report by the Inspector-General into the adequacy and suitability of NZSIS policies relating to creation, maintenance and closure of files on New Zealanders, and policies raised in the public domain (centred on Members of Parliament), in light of NZSIS functions under the NZSIS Act 1969.

The 2009 report revealed that NZSIS processes were within the law but needed further consideration in areas of personal files about or connected with Members of Parliament and also on destroying or keeping personal files and records. The Inspector-General recommended that further consideration be given to developing guidelines about and limiting the NZSIS records. He also recommended that any personal file or record on MPs should be deactivated and that a formula should be developed in which NZSIS could collect and act on information about people, including MPs, if they are of security interest.