

GENERAL USE TALKING POINTS

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INTRODUCTION

I'm very happy to be here today and to have the chance to talk to you about the New Zealand Security Intelligence Service.

Most people, if they think about the Service at all, probably have only the vaguest idea of what it does; certainly that was the case for me before I joined in October 1999, even though I had had some contact with it over the years, including being vetted numerous times.

But quite a lot can and should be said in public about the Service. Beginning under the last government and my predecessor, and continuing under the present government, much more openness and transparency are being achieved.

In 1998 a booklet about the Service was published for the first time. I have copies of it for those of you who may be interested. A new edition should come out later this year.

Since 2000 our Annual Report has been presented to Parliament; although some deletions are necessary for security, more has been stated in public than ever before. I have copies of the 2000/2001 report for you also.

Last year, for the first time in over twenty years, we recruited openly for career intelligence officers. And we now have our own website, nzsis.govt.nz; please visit us there.

This greater openness and transparency, coupled with the events of 11 September and the aftermath, have I think contributed to a generally more positive attitude towards the Service in recent years, for instance in the media.

I am glad to see this, because it would be a grave mistake to assume that we in New Zealand are somehow immune from international terrorism, espionage, illegal immigration or other activities of security concern, about which I will have more to say later on.

The Service does its best to protect New Zealand from these kinds of activities. And the Service needs public support and indeed assistance if it is to be effective in carrying out its functions. So I welcome opportunities to talk to groups like this about the Service.

The first thing to say is that the SIS staff are a bunch of ordinary New Zealanders. They are pretty typical of any Public Service agency in sex, age, ethnicity and educational background. If you saw them as a group you wouldn't look twice.

I myself was born in Greymouth, was brought up mainly in Christchurch, and was a New Zealand diplomat until 1999 when, having achieved all I wanted to in that career, I heard that the then Director of Security, Don McIver, was to retire. I applied, was interviewed like quite a few others, psych-tested, subjected to yet further vetting, and in due course was appointed.

HISTORY

The Security Service was founded in 1956; before then the functions were carried out by a branch of the Police. In 1969 it was given a new name and a legislative base, the New Zealand Security Intelligence Service Act. What the Service does, and to some extent how it does it, is governed by that Act and its amendments.

The Act was amended in 1977 (after the Sutch case, among other things to put in place a system which would allow the Service to legally intercept communications), 1996 (to extend the definition of security), and twice in 1999 (first to provide clear powers to enter property, in light of the Choudry case, and second to provide for a Commissioner of Security Warrants, to further refine the definition of security, to provide a clear statement of the Service's political neutrality, and to set out in law all the functions the Service was already carrying out).

The size of the Service peaked at 159 staff in 1982/83 and then steadily declined so that as at 11 September last year we had about 110 staff and the budget for 2001/02 was originally \$12 million. The headquarters are in Wellington and there are regional offices in Auckland, Wellington and Christchurch.

FUNCTIONS

These were set out in full, for the first time, by the second 1999 amendment to the NZSIS Act. The functions are subject to the control of the Minister in Charge of the Service - who does not have to be, but always has been, the Prime Minister. In summary they are:

- to obtain, correlate and evaluate intelligence relevant to security, and to communicate it to those the Director considers should be aware, in the interests of security;

- to advise Ministers and government and public authorities about matters relevant to security, including protective measures;

- to conduct inquiries and make recommendations on whether individuals should be granted security clearances ("vetting");

- to make recommendations in respect of Citizenship or Immigration matters relevant to security;

- to cooperate with other organisations in New Zealand and abroad that can assist the Service to carry out its job.

The key element is security. The Service does not engage in any activity that is not relevant to security.

In addition the Director, for the purpose of preventing or detecting serious crime in New Zealand or in any other country, may retain any information and communicate it to the New Zealand Police or other appropriate people.

DEFINITION OF SECURITY

So what is "security"? The word was redefined in the second 1999 amendment, as follows:

- "(a) The protection of New Zealand from acts of espionage, sabotage, terrorism, and subversion, whether or not they are directed from or intended to be committed within New Zealand:
- (b) The identification of foreign capabilities, intentions, or activities within or relating to New Zealand that impact on New Zealand's international well-being or economic well-being:
- (c) The protection of New Zealand from activities within or relating to New Zealand that-
- (i) Are influenced by any foreign organisation or any foreign person; and
 - (ii) Are clandestine or deceptive, or threaten the safety of any person; and
 - (iii) Impact adversely on New Zealand's international well-being or economic well-being."

The first of those definitions provides for the Service's traditional domestic security role. The second and third were added in 1996 and further refined in 1999. The second enables the Service to contribute to meeting the Government's foreign intelligence requirements. The third enables the Service to work against more recent threats to security; I'll come back to this later when I talk about what the Service actually does.

Espionage and sabotage are defined in the Crimes Act 1961; subversion and terrorism are defined in the NZSIS Act itself, but terrorism may be more clearly defined in the Suppression of Terrorism bill now being considered by Parliament.

NON-FUNCTIONS

The Act specifies that nothing in it limits the right of persons to engage in lawful advocacy, protest or dissent and that the exercise of that right does not of itself justify the Service in instituting surveillance of any person or entity. In other words, the Service may not, and does not, investigate people because they take part in legal protest activities, or disagree with the Government of the day.

It is not a function of the Service to enforce measures for security. We can't arrest anyone. If someone is to be arrested, that is a matter for the Police.

POLITICAL NEUTRALITY

It is of course essential that a Service of this kind be, and be seen to be, absolutely politically neutral. To this end, the Act specifies among other things that:

the Director must take all reasonable steps to ensure that the Service does not take any action for the purpose of furthering or harming the interests of any political party;

the Minister may not direct the Service to institute surveillance of any person or class of person;

and the Director must consult regularly with the Leader of the Opposition (this has long been the practice, but since 1999 it has been enshrined in law).

Needless to say, I take these responsibilities (like all my responsibilities) very seriously.

The Director is appointed by the Governor-General. Although the Act does not say so, the Governor-General acts on a recommendation made by the Prime Minister after consulting the Leader of the Opposition. In my case, the Prime Minister acted on a recommendation from a panel comprising the Chief Executive of the Department of Prime Minister and Cabinet, the State Services Commissioner and the then Director of Security.

OVERSIGHT

In 1996, as well as the amendment to the NZSIS Act, Parliament passed two other Acts. These established the Inspector-General of Intelligence and Security and the Intelligence and Security Committee of Parliament.

The Inspector-General must be a retired High Court Judge. He has broad powers, of his own motion or at the request of the Minister, to enquire into the Service's compliance with the law, or into any complaint made to him. He has wide powers of access to Service information relevant to his enquiries.

The Intelligence and Security Committee of Parliament examines the Service's policy, administration and expenditure, receives the Service's annual report and considers any relevant matter referred to it by Parliament or by the Prime Minister. It has five members: Prime Minister plus two nominated by her after consulting the leaders of each party in Government, and Leader of the Opposition plus one nominated by her after the leaders of other parties; the membership must be endorsed by Parliament.

INTERCEPTION WARRANTS

Much of the Service's information comes from contacts with ordinary New Zealanders: officers declare themselves as Service officers and seek information relevant to security. Other information comes from sources and agents. But not all information can be obtained by those means.

If it cannot be obtained by those means, and if it is of sufficient value to security, I may swear an affidavit to that effect and seek a warrant to intercept or seize communications, documents or things. The Minister has to be satisfied with my affidavit and with other conditions set out in the Act. If she is, she may issue a warrant.

When a New Zealand citizen or permanent resident is to be identified in the proposed warrant, not only the Minister but also the Commissioner of Security Warrants has to be satisfied. The Commissioner reviews the file, questions Service staff who prepared it, discusses it with me, and then meets the Minister to discuss the application. If they are both satisfied, they jointly issue the Warrant.

The Commissioner must be a retired High Court Judge. The number of warrants involving New Zealand citizens or permanent residents is declared to Parliament each year. There were 17 in 2000/01.

THE WORK OF THE SERVICE

So that's the legal framework. But what does the Service actually do? The Service has four "outputs": security intelligence; foreign intelligence; protective security; and foreign liaison.

In 2001/02 we planned to use 21% of our resources on protective security: the provision of physical security advice and personnel vetting services to other Government agencies. 11% was allocated to the collection of foreign intelligence in response to national requirements set by the Foreign Intelligence Requirements Committee; we do not assess such intelligence but simply report it to other government agencies. And 9% was to be used for liaison with foreign intelligence organisations who can provide us with information that helps us in our functions.

The rest of the Service's budget, 59% of the total, was to be devoted to the collection of security intelligence and the provision of relevant advice to the Government.

I put all these figures in the past tense because the events of 11 September profoundly changed our resource allocation, mainly within the Security Intelligence output but also more broadly. I'll come back to that later.

The key point in respect of security intelligence is that New Zealand's distance from other countries should not lull us into thinking that we are somehow immune from threats to security. With modern air transport, and now with the explosion of global communications such as the Internet, distance offers scant protection.

indeed, the perception of New Zealand as a free and open society, relatively easy to enter and operate in, could make us an attractive place for people like international terrorists to use as a safe haven from which to plan or facilitate operations elsewhere. The much more diverse pattern of immigration into New Zealand over the past decade or two increases that risk.

The four traditional matters of Service concern are espionage, sabotage, subversion and terrorism.

Espionage by other countries has not disappeared with the end of the cold war. Some countries send undeclared intelligence officers here to pursue objectives which are detrimental to the well-being of New Zealand and New Zealanders. We try to keep an eye on such people.

Sabotage is fortunately rare in New Zealand, but not totally absent as the case of the South Island pylons a few years ago demonstrated. When an act of sabotage occurs it is primarily a matter for the Police, but the Service can play an appropriate role if necessary.

Fortunately also the risk of subversion - attempts by extremist groups to overthrow or undermine parliamentary democracy by unlawful means - is very low in New Zealand, and so accordingly is the extent of Service effort devoted to protection against it. But it is important for the Service to retain the legal ability to play a role in protecting New Zealand against subversion should it occur.

The fourth traditional element of the Service's work - against terrorism - I will come back to in a minute.

Since 1996, and better defined in 1999, the Service also has a role in protecting New Zealand from clandestine foreign-influenced activities that could have an adverse impact on our international or economic well-being. Let me give a few examples.

The theft of New Zealand intellectual property by foreigners is one. The Pacific Rose case indicates what I mean; valuable apple cuttings stolen from a research centre but caught at the airport before the perpetrators left the country. The Service is not interested in industrial espionage per se but it is concerned when the theft is by foreigners and is sufficiently serious to have an adverse impact on New Zealand's economic well-being. We devote some resource to trying to prevent this happening, including contacts with CRIs and other research bodies.

Another is counter-proliferation. Here again New Zealand has a responsibility as a member of the international community, to help prevent the acquisition in New Zealand of things or knowledge that could help other countries - or terrorists like Usama bin Laden - make weapons of mass destruction such as nuclear, chemical or biological weapons.

One possible aspect is dual-use items - items made in New Zealand that have a perfectly legitimate use but which can also be used eg in the manufacture of nuclear weapons. Another is research by foreigners in the scientific faculties of our universities, which could be used to gain knowledge relevant to the manufacture of, say, chemical weapons. We encourage relevant bodies in New Zealand to be alert to the risks - which I know from experience are real. If we failed in our duty in this area, there would be an adverse effect on New Zealand's reputation and thus on our international well-being.

Two other examples of activities which are foreign-influenced and clandestine and could have an adverse impact on our international or economic well-being are also serious crime and as such are fields in which the Service is not the lead agency but can play a useful supporting role.

One is money-laundering; we want to ensure that New Zealand's open, lightly regulated financial environment is not abused. Another is illegal immigration, a growing problem not only here but in Australia and elsewhere. We have found that the Service can make a significant contribution in identifying individuals engaged in this activity and thus to disrupting it. I suspect our work in this area will grow.

As with proliferation, there are connections between illegal immigration and money-laundering, and terrorism. So our work in these areas contributes also to our work against international terrorism. We cannot afford to stop or reduce them.

Now let me come back to terrorism.

The terrorist threat in New Zealand is low, but cannot be discounted - as was shown by the letter to the US Embassy, threatening Tiger Woods and people attending the Golf Open at Paraparaumu, and containing cyanide. The letter may have been a hoax - but the cyanide was real.

But there are individuals and groups in New Zealand with links to overseas organisations that are committed to acts of terrorism, violence and intimidation. New Zealand has a duty, as a responsible member of the international community, to take its proper part in defeating international terrorism.

That duty has been emphasised by the appalling events of 11 September 2001, which showed a new capacity and willingness by terrorists to wreak havoc and destruction. Even before 11 September, counter-terrorism was the single largest user of the Service's Security Intelligence resources.

Since 11 September the Service has had to divert substantial resources from other tasks into the counter-terrorist effort. Among other things we established an 0800 number - 0800 SIS 224 - to make it easy for members of the public to contact us if they have information which could help detect people or activities supporting international terrorism. So far over 400 calls have been received; a significant proportion have been useful.

But we cannot sustain beyond the short term this diversion of resource. We cannot afford to stop activity against traditional espionage, for instance, or other activities of the sort I will cover in a minute. Therefore, if we are to maintain a higher level of activity against international terrorism we need additional resources.

I'm glad to say that Cabinet has agreed and the Service will therefore, if Parliament agrees, receive additional funding enabling it to expand its staff numbers over a three year period beginning immediately.

CONCLUSION

Let me conclude by repeating what I said at the beginning: that I much appreciate the opportunity to talk to you about the Service.

I hope you have found it interesting, even if I have neither cloak nor dagger. I would be happy to take any questions you may wish to put to me, while asking you to accept that there may be some I will be unable to answer.