



Activities of the Intelligence and Security Committee in 2015

Report of the Intelligence and Security Committee

Fifty-first Parliament
Rt Hon John Key, Prime Minister
March 2016

*Presented to the House of Representatives
and published under the authority of the
House*

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Recommendation

The Intelligence and Security Committee presents this report to the House of Representatives in accordance with section 6(1)(e) of the Intelligence and Security Committee Act 1996 and recommends that the House take note of its report.

Introduction

This is the second annual report on the activities of the Intelligence and Security Committee and covers the period 17 February 2015 to 8 March 2016. The committee's first annual activities report covered the period 16 April 2013 to 30 June 2014 and was presented to the House on 11 July 2014. The work of the committee was interrupted in the second half of 2014 because of the General Election held on 20 September 2014. The committee was convened on 17 February 2015, after the commencement of the 51st Parliament on 20 October 2014.¹

Section 6(1)(e) of the Intelligence and Security Committee Act 1996 (the Act) requires the Intelligence and Security Committee to present an annual report to the House on its activities and to make the report available publicly on the New Zealand Parliament website. In discharging this function, section 18 of the Act requires the committee to have regard to security considerations in any report it makes to the House.

Functions of the committee

The Intelligence and Security Committee is a statutory committee, which was established in 1996 to oversee and review the intelligence and security agencies—the New Zealand Security Intelligence Service and the Government Communications Security Bureau. The statutory functions of the committee include:

- Examining the policy, administration, and expenditure of each intelligence and security agency.
- Conducting an annual financial review of the performance of an intelligence and security agency in the previous financial year after the responsible Minister has submitted a copy of the agency's annual report to the committee.
- Receiving and considering the annual report of each intelligence agency.
- Considering any bill, petition, or other matter relating to an intelligence and security agency referred to it by the House.
- Considering any matter referred to it by the Prime Minister because of that matter's security or intelligence implications.
- Making an annual report to the House on its activities.

¹ Section 8(1) of the Intelligence and Security Act 1996.

- Meeting with the Inspector-General of Intelligence and Security to consider and discuss his or her annual report as presented to the House under section 27(3) of the Inspector-General of Intelligence and Security Act 1996.²

The House enlists the committee into its parliamentary procedures by sessional orders made after the commencement of each Parliament. For the 51st Parliament, the House, on 17 February 2015, resolved that:

- The committee examine the Supplementary Estimates and main Estimates Vote for each intelligence and security agency.
- The committee conduct an annual review of the performance in the previous financial year and the current operations of each intelligence and security agency.
- A bill or other matter relating to an intelligence and security agency may be referred by the House to the committee for consideration and report.
- The Clerk of the House will allocate any petition relating to an intelligence and security agency to the committee.

The House also resolved that no select committee can examine an intelligence and security agency. Any inquiry into the performance of an intelligence and security agency by a select committee is therefore prohibited by order of the House. This does not however remove the House's power to inquire into the agencies or refer proposed legislation relating to intelligence and security to select committee for consideration.

Under section 12 of the Act, the proceedings of the committee are conducted in accordance with the Standing Orders of the House of Representatives. Unlike select committees, section 12(2) of the Act requires the committee to conduct its proceedings in private unless the committee unanimously resolves otherwise, or it is conducting an annual review of an intelligence and security agency (*see section 6(1)(ab) of the Act*). Further, presentation of this report to the House does not release the committee's proceedings relating to the activities referred to in the report. This differs significantly from select committee proceedings, which remain strictly confidential to the committee only until it reports to the House (*see Standing Order 239(1)*).

Activities of the committee

Between 17 February 2015 and 8 March 2016, the committee met five times to conduct its performance and financial scrutiny work, to consider the annual reports of the Inspector-General of Intelligence and Security and to consider the periodic review of the intelligence and security agencies.

Annual reviews

On 11 March 2015 (and on 8 December 2015) the committee conducted the annual reviews of the 2013/14 (and 2014/15) performance and current operations of the Government Communications Security Bureau and the New Zealand Security Intelligence Service. On both occasions, it heard evidence (in public) from both agencies and received advice on the performance of the agencies from the Office of the Auditor-General. The committee believes holding these annual review hearings in public has served to strengthen the oversight and accountability of New Zealand's intelligence and security agencies and

² *Ibid*, section 6.

provided the public with a better understanding of the work of the agencies. The committee appreciated the cooperation shown by the intelligence and security agencies in participating in these public hearings. The committee reported to the House on these reviews on 12 March 2015 and on 9 December 2015, respectively.

Estimates examination

The committee met on 27 May 2015 to examine the 2014/15 Supplementary Estimates and the 2015/16 main Estimates for Vote Communications Security and Intelligence and Vote Security Intelligence. The committee heard evidence (in private) from the Government Communications Security Bureau and the New Zealand Security Intelligence Service, and received advice from the Office of the Auditor-General. It reported to the House on these reviews on 28 May 2015.

Annual reports of the Inspector-General of Intelligence and Security

During 2015 the committee met twice with the Inspector-General of Intelligence and Security to discuss and consider the contents of the 2014 and 2015 annual reports of the Office of the Inspector-General of Intelligence and Security, presented to the House on 24 February 2015 and on 4 November 2015, respectively. While the committee has an opportunity to discuss such reports directly with the Inspector-General, presentation of them to the House also enables the possibility of questions from other members on oversight matters referred to in the annual reports.

The committee first met with the Inspector-General on 27 May 2015 to discuss the contents of the 2014 annual report and again on 10 November 2015 to discuss the 2015 annual report. At each of these meetings, the Inspector-General provided the committee with a comprehensive account of the work of the Office of the Inspector-General. The committee appreciated the comprehensive nature of its discussions with the Inspector-General and believe these meetings serve to strengthen the level of oversight and review of our intelligence and security agencies. All meetings with the Inspector-General were conducted in private.

Periodic review of intelligence and security agencies

Under the Intelligence and Security Act, the committee has a responsibility to hold periodic reviews of the intelligence and security agencies, the legislation governing them, and their oversight legislation. Section 21 of the Act required the first of these periodic reviews to commence before 30 June 2015. This deadline was met.

At its 11 March 2015 meeting, the committee discussed the timeline for the review, the proposed reviewers and their terms of reference. The date specified for completion of the review was 29 February 2016.

The terms of reference for the review were broad and focussed on determining:

- Whether the legislative frameworks of the intelligence and security agencies are well placed to protect New Zealand's current and future national security, while protecting individual rights.
- Whether the current oversight arrangements provide sufficient safeguards at an operational level, judicial and political level to ensure the intelligence and security agencies act lawfully and maintain public confidence.

The committee met with the reviewers on 3 November 2015 to discuss their initial findings. The reviewers provided their final report to the committee, entitled *Intelligence and Security in a Free Society: Report of the First Independent Review of Intelligence and Security in New Zealand*, by the notified completion date for the review of 29 February 2016.

The committee met on 8 March 2016 to consider the reviewers' final report. Having considered the report fully, the committee presented the report to the House on 9 March 2016. The committee looks forward to seeing the Government's response to the report.

Appendix

Committee membership

Section 7(1) of the Act states that membership of the committee shall comprise of:

- the Prime Minister
- the Leader of the Opposition
- two members of the House nominated by the Prime Minister after consultation with the leader of each party in Government
- one member of the House nominated by the Leader of the Opposition, with the agreement of the Prime Minister, following consultation with the leader of each party that is not in Government.

The names of the nominated members must be submitted to the House for its endorsement as members of the committee. The committee cannot transact business until these members have been endorsed by the House.

On 17 February 2015, in accordance with section 8(1) of the Act, the House (by sessional order) endorsed the following as members of the committee: Hon Amy Adams and Hon Christopher Finlayson (nominated by the Prime Minister under section 7(1)(c) of the Act); and David Shearer (nominated by the Leader of the Opposition under section 7(1)(d) of the Act).

List of committee members

Rt Hon John Key (Prime Minister) (Chairperson)
Hon Amy Adams
Hon Christopher Finlayson
Andrew Little (Leader of the Opposition)
David Shearer

In accordance with section 7(1)(4) of the Act, all members who serve on the committee do so in their capacity as members of Parliament. Section 7(3) of the Act establishes the Prime Minister as the chairperson of the committee.