

Defining National Security



DEPARTMENT of the
PRIME MINISTER and CABINET

Te Tari o Te Pirimia me Te Komiti Matua

The agencies' role in protecting New Zealand

The Intelligence and Security Act 2017

FACT SHEET NO. 3

The protection of New Zealand's national security is one of three core objectives of our security and intelligence agencies. But what exactly is 'national security'? It's a difficult concept to define as it needs to be able to respond to different threats which may evolve or emerge over time.

How is national security defined?

As introduced to Parliament, the Intelligence and Security Bill adopted the definition of national security proposed in the First Independent Review of Intelligence and Security in New Zealand:

National security means the protection against –

- *threats, or potential threats, to New Zealand's status as a free and democratic society from unlawful acts or foreign interference*
- *imminent threats to the life and safety of New Zealanders overseas*
- *threats, or potential threats, that may cause serious harm to the safety or quality of life of the New Zealand population*
- *unlawful acts, or acts of foreign interference, that may cause serious damage to New Zealand's economic security or international relations*

- *threats, or potential threats, that may cause serious harm to the safety of a population of another country as a result of unlawful acts by a New Zealander that are ideologically, religiously, or politically motivated*
- *threats, or potential threats, to international security.*

Officials and Parliamentary Counsel advised this definition had a number of shortcomings – its scope was unclear and it was unnecessarily complex – and the Select Committee agreed.

Alternative approach adopted

The NZSIS and GCSB cannot target New Zealanders unless they can persuade the responsible Minister and a Commissioner of Intelligence Warrants that the proposed activity is in the interests of national security. Because of the difficulties of defining "national security", Parliament changed the Bill. The Act now avoids defining the term "national security" in legislation, and instead lists clearly the types of activities and threats that are covered.

Under this approach, a warrant to target New Zealanders would require that:

- 1) First, the proposed activity is necessary to contribute to the protection of national security. National security is not formally defined, allowing it to be adaptive to an ever-changing security environment. Instead, it must be determined by the Minister responsible for the relevant intelligence and security agency and a Commissioner of Intelligence Warrants whether something is a matter of national security.

- 2) Second, the proposed activity is necessary for the collection of intelligence relating to one or more of the following activities in New Zealand or overseas:
 - a) Terrorism or violent extremism;
 - b) Espionage or other foreign intelligence activity;
 - c) Sabotage;
 - d) Proliferation of weapons of mass destruction (chemical, biological, radiological, or nuclear weapons);
 - e) Activities which may be relevant to serious crime and that:
 - i) originate or are influenced from outside New Zealand;
 - ii) involve the movement of money, goods or people; or
 - iii) have the potential to damage to New Zealand's international relations or economic security;
 - f) Threats to, or interference with, information (including communications) or information infrastructure of importance to the Government of New Zealand;
 - g) Threats to international security that have the potential to impact adversely on New Zealand's interests;
 - h) Threats to New Zealand government operations; and
 - i) Threats to New Zealand's sovereignty, including its territorial or border integrity and its right to manage or control its natural resources.