

New Zealand government fast tracks domestic spying laws

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New Zealand's conservative National Party-led government is fast tracking new laws to give the country's external security agency, the Government Communications Security Bureau (GCSB), greater powers to spy on citizens and residents. The legislation, introduced under "urgency" provisions to curtail public debate, is designed to legalise GCSB activities that were found to be illegal by a report released in April.

The report by Rebecca Kitteridge, a senior public servant in Prime Minister John Key's department, was ordered after revelations that the GCSB had acted illegally in spying on Kim Dotcom, a New Zealand citizen, whose home was raided by police in January 2012. Dotcom, founder of the Megaupload Internet file-sharing site, had begun legal action. Existing legislation forbids the bureau from intercepting the communications of NZ citizens or permanent residents. Kitteridge found that 55 GCSB operations over the past decade, involving up to 85 individuals, had been unlawful.

The GCSB's activities were subsequently whitewashed in another review carried out by the Inspector-General of Intelligence and Security Paul Neazor. Unsurprisingly, Neazor, who is head of the country's security apparatus, cleared the GCSB of acting unlawfully on the spurious grounds that the law was "unclear."

However, the Key government is now exploiting Kitteridge's findings to amend the 2003 GCSB Act and the 2004 Telecommunications Interception Capability Act. The changes will allow the GCSB to engage in domestic spying activities, both on its own behalf and in conjunction with the police, the Defence Force and the domestic spy agency, the Security Intelligence Service (SIS).

Extensions to the GCSB Act will expand the

bureau's aims beyond "national security" to include contributing to "the international relations and well-being of NZ" and its "economic well-being." It will also be empowered to provide advice to a range of unspecified public and private sector organisations.

The GCSB's role in providing support to the SIS represents a de facto merger of the two agencies. In the *New Zealand Herald* on April 19, Gehan Gunasekara, an information privacy law specialist at Auckland University, warned that giving agencies such as the police access to GCSB capabilities would "extend their abilities to spy throughout the globe."

The new Telecommunications Interception Capability and Security (TICS) Bill expands the GCSB's interception capabilities, allowing them to monitor Internet service providers including email providers, Internet forums and file sharing sites. The TICS Bill also creates a new role for the GCSB to ensure the security of New Zealand's telecommunications infrastructure, which includes wide powers to determine how communications networks are managed and implemented.

According to Thomas Beagle from Tech Liberty, the new legal powers for New Zealand agencies outstrip those in the United States, giving the GCSB "practically unlimited capacity to intercept New Zealand communications." The principle of judicial oversight is done away with, and the framework is being established for a "surveillance state" where the government is always watching and recording everyone.

The GCSB is almost certainly party to the US National Security Agency's (NSA) vast and illegal global spying operations exposed by whistleblower Edward Snowden. The NSA shares some of its data with agencies from four countries: Britain, Australia,

New Zealand and Canada, collectively known as the “Five Eyes” alliance. This effectively permits the governments involved to circumvent any prohibition against gathering data on their own citizens by accessing the NSA’s massive data banks. As an integral part of this network, the GCSB operates the Waihopai satellite communications monitoring base, opened in the South Island in 1989.

In an interview with TV3 on June 11, Key fell into step with the international vilification of Snowden, sharply denouncing him as a “criminal”, and saying he should face the “full force of the law.” While Key has flatly refused to comment on any aspect of NSA activities and its links with New Zealand spy agencies, he has not denied that they exist.

In a carefully worded response to questions on the NSA’s data harvesting, Key declared: “We don’t ask foreign intelligence agencies to act in any way that circumvents the New Zealand law.” Given that the GCSB has repeatedly broken the law for the past decade, this is sheer sophistry.

Key acknowledged: “We do exchange—and it’s well known—information with our partners. We do do that. How they gather that information and whether they use techniques or systems like PRISM I can’t comment on that.”

Responsibility for the assault on democratic rights lies with National and Labour-led governments, supported by the Greens. Since 9/11, there has been, under pressure from Washington, a cross-party consensus on ramping up security and surveillance legislation. The previous Clark Labour government established the draconian 2001 Terrorism Suppression Act and the 2003 GCSB Act, which moved the bureau out of the Ministry of Defence and set it up as a stand-alone department. It was also responsible for SIS’s persecution of Algerian asylum seeker Ahmed Zaoui.

Labour and the Greens have criticised the Key government’s legislation and called for a “review” of the security apparatus. Such a review, however, would only serve to further increase spying operations. While posturing as defenders of Snowden, Labour and the Greens have lined up with the right-wing NZ First party in demanding criminal investigations into United Future MP Peter Dunne who was forced to resign from the cabinet on June 7 over allegations that he leaked the Kitteridge Report before its official release.



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