

*Independence*

*trustworthiness*

*accountability*

*vigilance*

*integrity*

Police Investigation of Alleged Unlawful  
Interceptions of Private Communications by  
Government Communications Security  
Bureau

July 2014

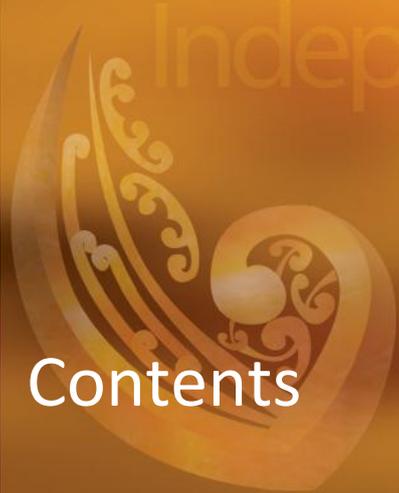


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July 2014

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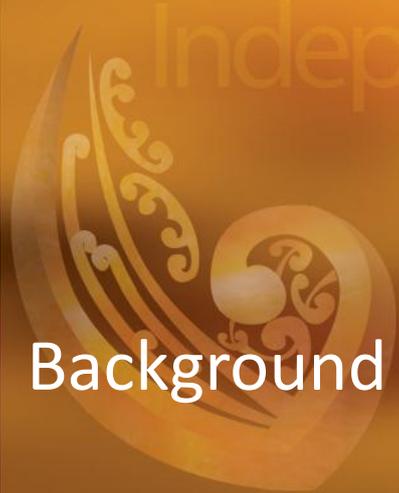


# Introduction

INDEPENDENT POLICE CONDUCT AUTHORITY

1. In September 2012, following revelations that the Government Communications Security Bureau (GCSB) had unlawfully intercepted private communications, Dr Russel Norman MP, the co-leader of the Green Party, asked the Police to investigate whether any GCSB officers had committed a criminal offence, and specifically whether they had breached section 216B of the Crimes Act 1961.
2. On 9 April 2013, Dr Norman wrote to the Commissioner of Police asking that his complaint be widened to cover all cases in the past decade where the GCSB may have “unlawfully spied” on people.
3. Dr Norman subsequently laid a complaint with the Authority on 19 September 2013, alleging neglect of duty by the Police in relation to their investigation and their findings arising from it. He specifically complained that the Police had applied the wrong legal test in determining criminal liability; that the barrister that they had engaged to provide legal oversight of the Police investigation had a conflict of interest; and that they had failed to investigate some alleged acts of unlawful interception at all.
4. This report sets out the outcome of the Authority’s inquiry into that complaint.





# Background

INDEPENDENT POLICE CONDUCT AUTHORITY

## SUMMARY OF EVENTS

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5. In 2012, at a judicial review hearing relating to the Police execution of a search warrant at the residential premises of Mr Kim Dotcom, the Attorney-General accepted that the GCSB may have intercepted the private communications of Mr Dotcom and his business colleague Mr Bram van der Kolk prior to the execution of the warrant, and then passed information relating to those communications to the Police<sup>1</sup>. The Prime Minister asked Hon Paul Neazor, the Inspector-General of Intelligence and Security (IGIS), to investigate and report on the matter.
6. In a letter to the Prime Minister dated 27 September 2012, the IGIS confirmed that the GCSB had intercepted Mr Dotcom's communications at the request of Police officers working in the Organised and Financial Crime Agency of New Zealand (a dedicated agency within the New Zealand Police). He concluded that their actions in doing so were unlawful.
7. Shortly thereafter, in an undated letter, Dr Norman made a complaint to the Commissioner of Police in respect of the "*illegal actions undertaken by the GCSB*", on the basis that they constituted offences under section 216B of the Crimes Act 1961 (interception of a private communication by means of an interception device).
8. In response to the report from the IGIS, the Cabinet Secretary, Rebecca Kitteridge, was seconded to the GCSB on 2 October 2012 for a period of six months to carry out a review of its compliance systems and processes. She subsequently produced a report in March 2013 entitled *Review of Compliance at the Government Communications Security Bureau*. The report concluded that between 1 April 2003 and 26 September 2012 (when assistance from the GCSB to domestic agencies ceased) the GCSB had assisted the New Zealand Security Intelligence Service (NZSIS) or the Police in a potentially unlawful way on 56 occasions relating to 88 New Zealand citizens or residents (excluding the interceptions

<sup>1</sup> *Dotcom v Attorney-General* [2012] NZHC 3268 at [3]

relating to Mr Dotcom and Mr Van der Kolk), because it had passed on information derived from communications that it was not empowered under its legislation to intercept.

9. Following the release of this report, Dr Norman wrote to the Commissioner of Police on 9 April 2013 asking for the Police investigation to be extended to all cases in the previous decade where the GCSB may have “*unlawfully spied*” on people. Implicitly this referred to the information taken from the intercepted communications of 88 individuals that Ms Kitteridge found to have been provided by the GCSB to the NZSIS and the Police.

### **Police Investigation**

10. In response to Dr Norman’s complaint, the Police launched an investigation, headed by a Detective Superintendent, in early October 2012. They also engaged the services of Kristy McDonald QC to ensure independent oversight of the Police investigation and assurance as to its integrity and thoroughness.
11. Over the next two months, the Police officers conducting the investigation accessed all relevant Police documentation. They also interviewed the Police officers who had requested assistance from the GCSB and had attended a meeting with the GCSB on 14 December 2011 at which the nature of that assistance had been discussed and agreed upon.
12. Following this initial investigation, the Police provided to the GCSB a list of the documents that they wanted to examine (expressed in fairly general and comprehensive terms) and of the individual staff members that they wished to interview. It was some time before the material was provided and interviews held. There were a variety of reasons for this, including the fact that protocols needed to be agreed upon as to how the Police would deal with classified material. Interview dates were also postponed because of the unavailability of GCSB staff or their counsel.
13. A series of interviews with GCSB officers finally took place in March 2013. One refused to be interviewed altogether, and another provided information only by way of a prepared affidavit. Otherwise all the interviews were held as requested and all the documented material requested from the GCSB was provided. Following analysis of all the information collected, the report was drafted over June and July 2013. Successive drafts were presented to Ms McDonald for review, and an oral discussion was held with her about each draft. The report considered in detail whether criminal liability could be established under any of the provisions of the Crimes Act 1961, specifically section 216B (prohibition on the interception of a private communication by means of an interception device), section 216C (prohibition on disclosure of unlawfully intercepted private communications) or section 107 (contravention of statute). These provisions are set out in the Appendix to this report.

14. A summarised version of the Police report was publicly released on 29 August 2013.
15. The report found that Mr Dotcom was a resident visa holder; that the GCSB had no power under their legislation to intercept the communications of such a visa holder following the enactment of the Immigration Act 2009; and that one interception of a communication by Mr Dotcom was in breach of section 216B. It did not find that there was sufficient evidence to establish that any other information provided by the GCSB to the Police had been unlawfully intercepted or otherwise unlawfully acquired.
16. The report noted that, after the meeting between Police officers and GCSB staff on 14 December 2011, the GCSB officers responsible for responding to the Police request for assistance did not make, or cause to be made, any inquiries about the immigration status of Mr Dotcom and Mr van der Kolk. Nor did they raise the targets' status with in-house legal counsel at the GCSB prior to the provision of information to the Police and the subsequent execution of the search warrant. It concluded that the actions of GCSB staff in this and other respects could be considered "incompetent or negligent".
17. Nevertheless, the report concluded that there was insufficient evidence to establish criminal liability under section 216B on the basis that there needed to be:
  - 1) an intent to intercept a private communication using an interception device; **and**
  - 2) knowledge that the interception that was being undertaken was contrary to law (that is, outside the scope of a statutory authority).
18. The Police found that there was sufficient evidence to establish the first limb of this test: that there had been an interception of a private communication using a device. However, although there has now been a general acceptance that this was unlawful, the Police found that GCSB officers at the time had the mistaken belief that they had the statutory authority to undertake such an interception. That is because they had an incorrect understanding of the Immigration Act 2009 and how it related to the GCSB Act. The report therefore concluded that the second limb of the test for criminal liability could not be established, and that no prosecutions should be brought.
19. The report also concluded that liability could not be established under any other provision of the Crimes Act 1961.

#### Legal advice

20. In reaching their conclusion, the Police relied on a draft opinion dated 26 November 2012 from the Solicitor-General. A final version of that opinion, substantially unchanged, was contained in a letter dated 4 February 2013.

21. The officer in charge of the investigation sought advice on miscellaneous legal issues from Police Legal Services early on in the investigation and received written responses on 6 and 15 November 2012. Having read the legal opinion from the Solicitor-General, he also sought the advice of Police Legal Services at the conclusion of the investigation as to whether the opinion ought to be relied upon and was told on 15 August 2013 that Police Legal concurred with the approach expressed in the opinion.
22. The finding that no GCSB officer could be held criminally liable for the unlawful interceptions was accordingly made on the basis of the opinion from the Solicitor-General.



# The Authority's Investigation

INDEPENDENT POLICE CONDUCT AUTHORITY

## THE AUTHORITY'S ROLE

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23. Under the Independent Police Conduct Authority Act 1988, the Authority's functions are to:
- receive complaints alleging misconduct or neglect of duty by any Police employee, or concerning any practice, policy or procedure of the Police affecting the person or body of persons making the complaint; and
  - investigate, where it is satisfied there are reasonable grounds for doing so in the public interest, any incident in which a Police employee, acting in the course of his or her duty has caused or appears to have caused death or serious bodily harm.
24. The Authority's role on the completion of an investigation is to determine whether Police actions were contrary to law, unreasonable, unjustified, unfair, or undesirable.

## THE AUTHORITY'S INVESTIGATION

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25. Although the material relating to Dr Norman's complaint was classified, the Authority arranged for relevant staff to receive appropriate security clearance, and full access to the Police investigation file was granted. There was considerable delay before the appropriate security clearance was granted, and detailed work did not begin until the end of 2013. Apart from analysis of the material on the file, interviews were conducted with the Detective Superintendent in charge of the investigation, the Police Chief Legal Advisor and Kristy McDonald QC.

ISSUES CONSIDERED

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26. The Authority's investigation in this case has been of limited scope. It is not our role to investigate the activities of the GCSB. Nor is it our role to determine the accuracy of the legal advice provided to the Police by the Solicitor-General. We are solely concerned with whether there has been any misconduct or neglect of duty by the Police.
27. The Authority's investigation in this respect has canvassed the three matters of concern raised by Dr Norman in his complaint. These are:

*Issue one: Reliance on an absence of criminal intent to reach a decision*

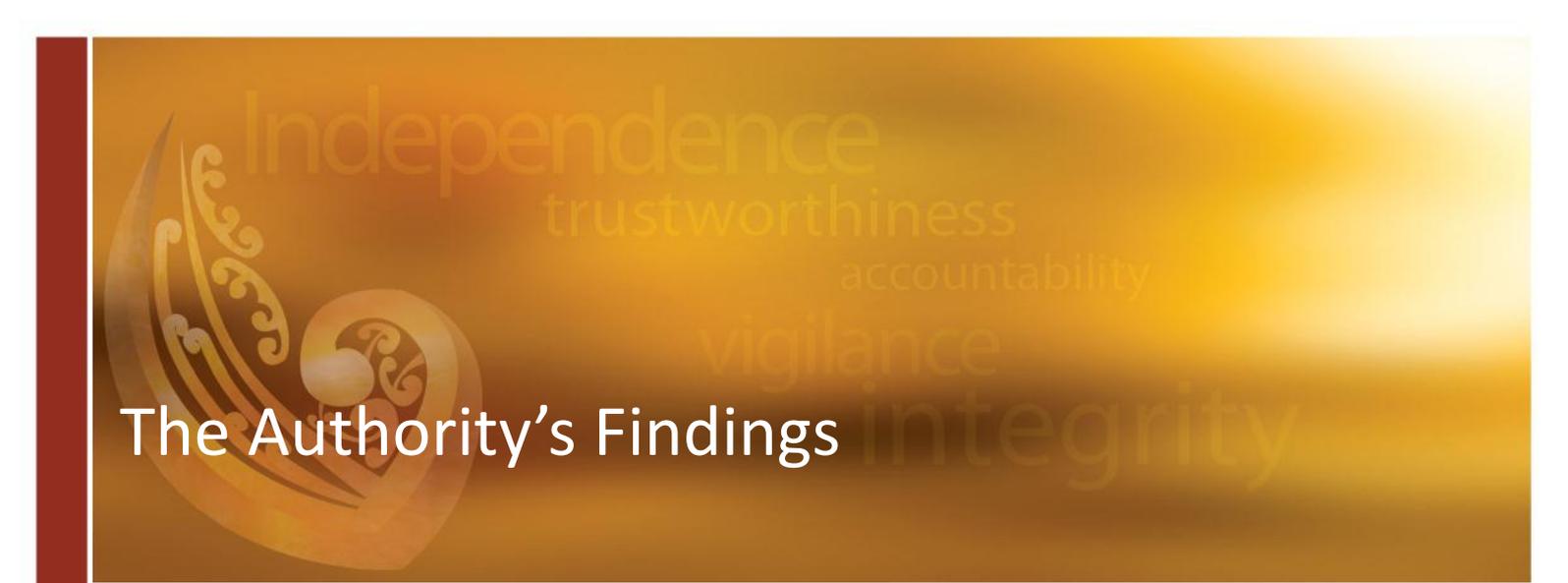
28. Dr Norman, in his complaint, states that the Police decision not to prosecute was based on an incorrect interpretation of the law. He argues that an intent to act unlawfully is not an element of the offence under section 216B; it is sufficient that a person *intentionally* intercepts a private communication using an interception device.

*Issue two: Appointment of Kristy McDonald QC to oversee the investigation*

29. Subsequent to her engagement as an independent reviewer of the Police investigation, Ms McDonald was separately engaged to represent the Attorney-General in proceedings being brought by Mr Dotcom against the Crown. Dr Norman maintains in his complaint that Ms McDonald had a clear conflict of interest, in that she was overseeing a complaint about the actions of a government agency while at the same time representing the Crown in proceedings concerning those same actions.

*Issue three: Failure to investigate the additional 56 potentially unlawful interceptions by the GCSB*

30. Dr Norman complains that the failure by Police to investigate the 56 additional instances of interception that may have been unlawful is unsatisfactory and a breach of duty.



# The Authority's Findings

INDEPENDENT POLICE CONDUCT AUTHORITY

## ISSUE 1: WERE THE POLICE JUSTIFIED IN RELYING ON AN ABSENCE OF CRIMINAL INTENT TO REACH THEIR DECISION NOT TO PROSECUTE?

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31. The investigation conducted by the Police was comprehensive and thorough. In the Authority's view, all documentation that was relevant to the inquiry was analysed, and all relevant witnesses who agreed to be spoken to were interviewed.
32. Dr Norman's essential complaint is not that the Police investigation itself was deficient, but that the conclusion reached as a result of it was based upon a mistake of law. In particular, he suggests that it is sufficient for criminal liability under section 216B of the Crimes Act 1961 that there be an intentional interception of a private communication using an interception device; and that the additional requirement, read into the section by the Police, that there be an intent to intercept private communications *illegally* (that is, to act outside the statutory authority of the GCSB) is an incorrect application of the Crimes Act.
33. As has been noted above (para 22) the Police decision was based squarely on an opinion provided by the Solicitor-General, and it was an opinion that Police Legal Services recommended ought to be followed. As also noted above (para 26), it is not within the jurisdiction of the Authority to review the validity of that opinion or to determine whether the test used by the Police to determine legal liability was legally accurate: our task is confined to determining whether Police actions were appropriate. In our view they clearly were. The Police were entitled to rely upon advice as to the law provided by the Solicitor-General. Indeed, having received the opinion it would have been surprising if they had proceeded on any other basis.
34. However, even if the Police had proceeded on the basis that criminal liability did not depend upon proof of an intent by GCSB officers to act outside their statutory authority, we take the view that a decision not to prosecute would nevertheless have been warranted. There are two reasons for this.
35. First, the one interception of Mr Dotcom that the Police found to be unlawful in fact contained only metadata (being data embedded in a communication that relates to its

form and time, date and circumstances of transmission rather than its content). As noted below (para 47), the report by the IGIS in May 2013 had expressed the view that the law was uncertain as to whether metadata fell within the scope of a private communication by a person. In the light of that uncertainty, a decision not to prosecute on that ground would not have been unreasonable.

36. Secondly, the Solicitor-General's *Prosecution Guidelines* require not only that there be evidential sufficiency for a prosecution, but also that it be in the public interest. The evidential sufficiency threshold would have been met, but arguably the public interest threshold would not have been.
37. It is true that, as noted above (para 16), the Police investigation concluded that individual GCSB officers may have been incompetent or negligent in failing to ask Immigration for information on the residency status of Mr Dotcom and Mr van der Kolk, and in failing to seek in-house legal advice, prior to intercepting their communications in December 2011. However, even if they had done so, it is highly likely that the interceptions would still have taken place. That is because, as has been noted above (para 18), the GCSB had an incorrect view of the law. Indeed, when the Deputy Director and Legal Counsel at the GCSB was asked in February 2012, after the Police had raised doubts about Mr Dotcom's visa status, whether the GCSB had the required interception power, he confirmed that the actions that had already occurred were lawful.
38. The essential reason for the interception can therefore be found not in the failure of individual officers to do appropriate checks in December but in the fact that the GCSB as an agency had a wrong view of the law. It would therefore have been reasonable for individual operational officers to have relied upon it and to have proceeded as they did. On this basis, the Police would have been justified in concluding that the prosecution of any individual GCSB officer was not required in the public interest.

#### FINDING

The Police were justified in relying upon an absence of criminal intent to reach their decision not to prosecute.

#### ISSUE 2: DID THE ENGAGEMENT OF KRISTY MCDONALD QC CREATE A CONFLICT OF INTEREST

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39. As noted above (para 10), when the Police launched their investigation they immediately engaged the services of Kristy McDonald QC to assist with the inquiry. At that stage, Ms McDonald had not been engaged to represent the Crown in any proceedings brought by Mr Dotcom, so no possibility of a conflict could have arisen at the time of the initial engagement.

40. Ms McDonald's role in the investigation was a limited one. Although there is a letter from Assistant Commissioner Mike Rusbatch to Dr Norman dated 29 August 2013 that states that Ms McDonald provided "*an independent legal review*" of the Police findings at the conclusion of the investigation, the Authority is satisfied after reviewing her terms of reference and interviewing her that this overstates the role that she played.
41. The initial letter to Ms McDonald dated 10 October 2012 asked her to provide "*independent oversight of the Police investigation and response to the complaint by Dr Norman*" in order "*to ensure public trust and confidence in the Police response*". In a letter dated 29 October 2012, the nature of this oversight was spelt out in more detail as follows:
- *To review and comment on the investigation plan and overall strategy for responding to the complaint;*
  - *To provide feedback, comment, or guidance to Police on progress of the investigation;*
  - *If necessary, to engage with the Inspector-General of Intelligence on behalf of Police;*
  - *To review proposals by Police for responding to the complaint, once the investigation phase of Operation Grey [the Police name for the investigation] has been completed;*
  - *To assist in providing ministerial assurance as to the integrity and thoroughness of the Police investigation.*
42. In interview, Ms McDonald said that she regarded these terms of reference as requiring her to provide advice on the integrity of the investigative process and to ensure that the Police were undertaking the investigation independently and objectively. Accordingly, she participated in an initial meeting to discuss the process of the investigation; she commented on one or two issues that arose during the course of the investigation; and she made comments on various drafts of the report as they were being prepared by the investigator, but only for the purpose of ensuring that the report was clear and well argued. She said that she had input into the structure and language of the final report, but did not provide advice on the correctness or otherwise of the substantive findings. Significantly, she did not provide advice to the Police on the law relating to the alleged unlawful interceptions; she noted in interview that the Police investigators instead received legal advice from Police Legal Services and ultimately by way of the opinion provided by the Solicitor-General. Indeed, she said that at one point in the investigation she noted a legal issue that she suggested be referred to the Police Chief Legal Advisor for comment, but she did not find out whether that was done or what the outcome was.

43. On 28 March 2013, Ms McDonald was engaged to represent the Attorney-General in proceedings being brought by Mr Dotcom against the Crown in respect of the search of his premises. The Attorney-General was a party to those proceedings as the representative of the Crown in two capacities: the first in relation to Police actions; and the second in relation to GCSB actions. Ms McDonald was representing him in terms of Police actions, while Mr David Boldt from the Crown Law Office was representing him in terms of GCSB actions.
44. The Detective Superintendent in charge of the Police investigation told the Authority that, when he learned that Ms McDonald had been engaged to represent the Attorney-General in those proceedings, he identified the possibility of a conflict of interest and referred the matter to the Police Executive for consideration. It was determined that there was no conflict, and Ms McDonald continued to provide advice in accordance with the original terms of reference as she had interpreted them.
45. The Authority agrees that there was no conflict of interest in these circumstances and that the Police decision to continue with her services was appropriate for two reasons:
- As she interpreted her terms of reference, Ms McDonald's role was a limited one. It did not involve the provision of advice about the law that was to be applied to the facts of the case.
  - Even if Ms McDonald had had a more extensive role, it is hard to see how this would have created a conflict of interest. A conflict of interest cannot arise from the mere fact that she was acting for or providing advice to the Police in two respects in relation to the same set of events. The Police investigation that she was overseeing was an independent investigation into the activities of the GCSB; the fact that she was acting for the Police in proceedings in which the GCSB was involved as a separate party cannot preclude the ability to provide impartial advice in relation to that investigation.

**FINDING**

The engagement of Kristy McDonald, QC did not create any conflict of interest.

**ISSUE 3: SHOULD THE POLICE HAVE INVESTIGATED THE ADDITIONAL 56 POTENTIALLY UNLAWFUL INTERCEPTIONS BY THE GCSB THAT WERE IDENTIFIED IN THE KITTERIDGE REPORT?**

46. The Police did not launch a full scale inquiry into the 56 additional instances of potentially unlawful interceptions that had been identified in the Kitteridge report (see above, para 8) because they reviewed the report provided to the Prime Minister by the IGIS in May

2013 and determined that there was insufficient evidence to warrant such an investigation.

47. That report, prepared in the wake of the Kitteridge report, found that all but four of the interceptions related to metadata (that is, data embedded in a communication that relates to its form and transmission rather than its content). It also noted that the law was unclear about whether metadata fell within the ambit of section 14 of the Government Communications Security Bureau Act 2003, which prohibits interceptions under the Act of the private communications of a person who is a New Zealand citizen or a permanent resident of New Zealand, unless the person comes within the definition of a foreign person or foreign organisation.
48. The other four interceptions that related to content all involved assistance to the NZSIS in the execution of a lawful issue of an intelligence warrant under the New Zealand Security Intelligence Service Act. Section 4D of that Act allows the NZSIS to obtain assistance from another agency to effect the execution of an intelligence warrant. Although there was some doubt about whether the GCSB was allowed to provide such assistance within the ambit of their Act as it then stood, there was sufficient statutory ambiguity to raise doubts about whether any unlawfulness was involved.
49. The Police determined, on the basis of that report, that the additional intercepts were not unequivocally unlawful and would clearly not reach the threshold to justify prosecution.
50. The Authority agrees with this view. Dr Norman argues that, since it can be said that there was, in the words of the IGIS, “*arguably no breach*”, it could equally be said that arguably there was a breach, and New Zealanders who were spied upon deserve to know whether the actions were lawful and justified. That may be so, but a full Police investigation into the GCSB’s activities in those cases would have been unable to provide such clarification, since the Police would not have been in the position to reach a determinative view on the statutory ambiguity. Only the courts could have done that, and the criminal prosecution of individuals in an attempt to clarify an inherently uncertain law would have been unjustified.

#### FINDING

The Police were justified in not investigating the additional 56 potentially unlawful interceptions that were identified in the Kitteridge report.



# Conclusions

INDEPENDENT POLICE CONDUCT AUTHORITY

## Section 27 opinion

51. Section 27(1) of the Independent Police Conduct Authority Act 1988 (the Act), requires the Authority to form an opinion as to whether or not any act, omission, conduct, policy, practice or procedure the subject-matter of an investigation was contrary to law, unreasonable, unjustified, unfair or undesirable.
52. In this case , the Authority has formed the opinion that:
  - 52.1 The Police investigation into the actions of GCSB officers in intercepting the private communications of Mr Dotcom was thorough in its scope and the conclusion that no prosecutions should be brought was justified.
  - 52.2 The Police engagement of Kristy McDonald QC did not create a conflict of interest and was justified.
  - 52.3 The Police were justified in not investigating the additional 56 potentially unlawful interceptions by the GCSB that were identified in the Kitteridge Report.



**JUDGE SIR DAVID CARRUTHERS**

**CHAIR**

**INDEPENDENT POLICE CONDUCT AUTHORITY**

**17 July 2014**





# Appendix: Relevant Offence Provisions

INDEPENDENT POLICE CONDUCT AUTHORITY

## **Crimes Act 1961**

### **107 Contravention of statute**

- (1) Everyone is liable to imprisonment for a term not exceeding 1 year who, without lawful excuse, contravenes any enactment by wilfully doing any act which it forbids, or by wilfully omitting to do any act which it requires to be done, unless—
  - (a) some penalty or punishment is expressly provided by law in respect of such contravention as aforesaid; or
  - (b) in the case of any such contravention in respect of which no penalty or punishment is so provided, the act forbidden or required to be done is solely of an administrative or a ministerial or procedural nature, or it is otherwise inconsistent with the intent and object of the enactment, or with its context, that the contravention should be regarded as an offence.
- (2) Nothing in subsection (1) applies to any contravention of any Imperial enactment or Imperial subordinate legislation that is part of the laws of New Zealand, or to any omission to do any act which any such Imperial enactment or Imperial subordinate legislation requires to be done.
- (3) In subsection (2), the terms Imperial enactment and Imperial subordinate legislation have the meanings given to them by section 2 of the Imperial Laws Application Act 1988.

### **216B Prohibition on use of interception devices**

- (1) Subject to subsections (2) to (5), everyone is liable to imprisonment for a term not exceeding 2 years who intentionally intercepts any private communication by means of an interception device.
- (2) Subsection (1) does not apply where the person intercepting the private communication—
  - (a) is a party to that private communication; or
  - (b) does so pursuant to, and in accordance with the terms of, any authority conferred on him or her by or under—

- (i) the Search and Surveillance Act 2012; or
  - (ii) [Repealed]
  - (iii) the New Zealand Security Intelligence Service Act 1969; or
  - (iiia) the Government Communications Security Bureau Act 2003; or
  - (iv) [Repealed]
  - (v) the International Terrorism (Emergency Powers) Act 1987.
- (3) [Repealed]
- (4) Subsection (1) does not apply to any monitoring of a prisoner call under section 113 of the Corrections Act 2004 or any interception of a private communication if the interception is authorised under section 189B of that Act.
- (5) Subsection (1) does not apply to the interception of private communications by any interception device operated by a person engaged in providing an Internet or other communication service to the public if—
- (a) the interception is carried out by an employee of the person providing that Internet or other communication service to the public in the course of that person's duties; and
  - (b) the interception is carried out for the purpose of maintaining that Internet or other communication service; and
  - (c) the interception is necessary for the purpose of maintaining the Internet or other communication service; and
  - (d) the interception is only used for the purpose of maintaining the Internet or other communication service.
- (6) Information obtained under subsection (5) must be destroyed immediately if it is no longer needed for the purpose of maintaining the Internet or other communication service.
- (7) Any information held by any person that was obtained while assisting with the execution of a surveillance device warrant issued under the Search and Surveillance Act 2012 must, upon expiry of the warrant, be—
- (a) destroyed immediately; or
  - (b) given to the agency executing the warrant.

**216C Prohibition on disclosure of private communications unlawfully intercepted**

- (1) Subject to subsection (2), where a private communication has been intercepted in contravention of section 216B, everyone is liable to imprisonment for a term not exceeding 2 years who intentionally—
  - (a) discloses the private communication, or the substance, meaning, or purport of the communication, or any part of it; or
  - (b) discloses the existence of the private communication,—

if he or she knows that it has come to his or her knowledge as a direct or indirect result of a contravention of section 216B.
- (2) Subsection (1) does not apply where the disclosure is made—
  - (a) to a party to the communication, or with the express or implied consent of such a party; or
  - (b) in the course, or for the purpose, of—
    - (i) an investigation by the Police into an alleged offence against this section or section 216B; or
    - (ii) giving evidence in any civil or criminal proceedings relating to the unlawful interception of a private communication by means of an interception device or the unlawful disclosure of a private communication unlawfully intercepted by that means; or
    - (iii) giving evidence in any other civil or criminal proceeding where that evidence is not rendered inadmissible by the Evidence Act 2006 or section 25 of the Misuse of Drugs Amendment Act 1978 or any other enactment or rule of law; or
    - (iv) determining whether the disclosure is admissible in any civil or criminal proceedings



# About the Authority

## WHO IS THE INDEPENDENT POLICE CONDUCT AUTHORITY?

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The Independent Police Conduct Authority is an independent body set up by Parliament to provide civilian oversight of Police conduct.

It is not part of the Police – the law requires it to be fully independent. The Authority is overseen by a Board, which is chaired by Judge Sir David J. Carruthers.

Being independent means that the Authority makes its own findings based on the facts and the law. It does not answer to the Police, the Government or anyone else over those findings. In this way, its independence is similar to that of a Court.

The Authority has highly experienced staff who have worked in a range of law enforcement roles in New Zealand and overseas.

## WHAT ARE THE AUTHORITY'S FUNCTIONS?

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Under the Independent Police Conduct Authority Act 1988, the Authority:

- receives complaints alleging misconduct or neglect of duty by Police, or complaints about Police practices, policies and procedures affecting the complainant;
- investigates, where there are reasonable grounds in the public interest, incidents in which Police actions have caused or appear to have caused death or serious bodily harm.

On completion of an investigation, the Authority must determine whether any Police actions were contrary to law, unreasonable, unjustified, unfair, or undesirable. The Authority can make recommendations to the Commissioner.



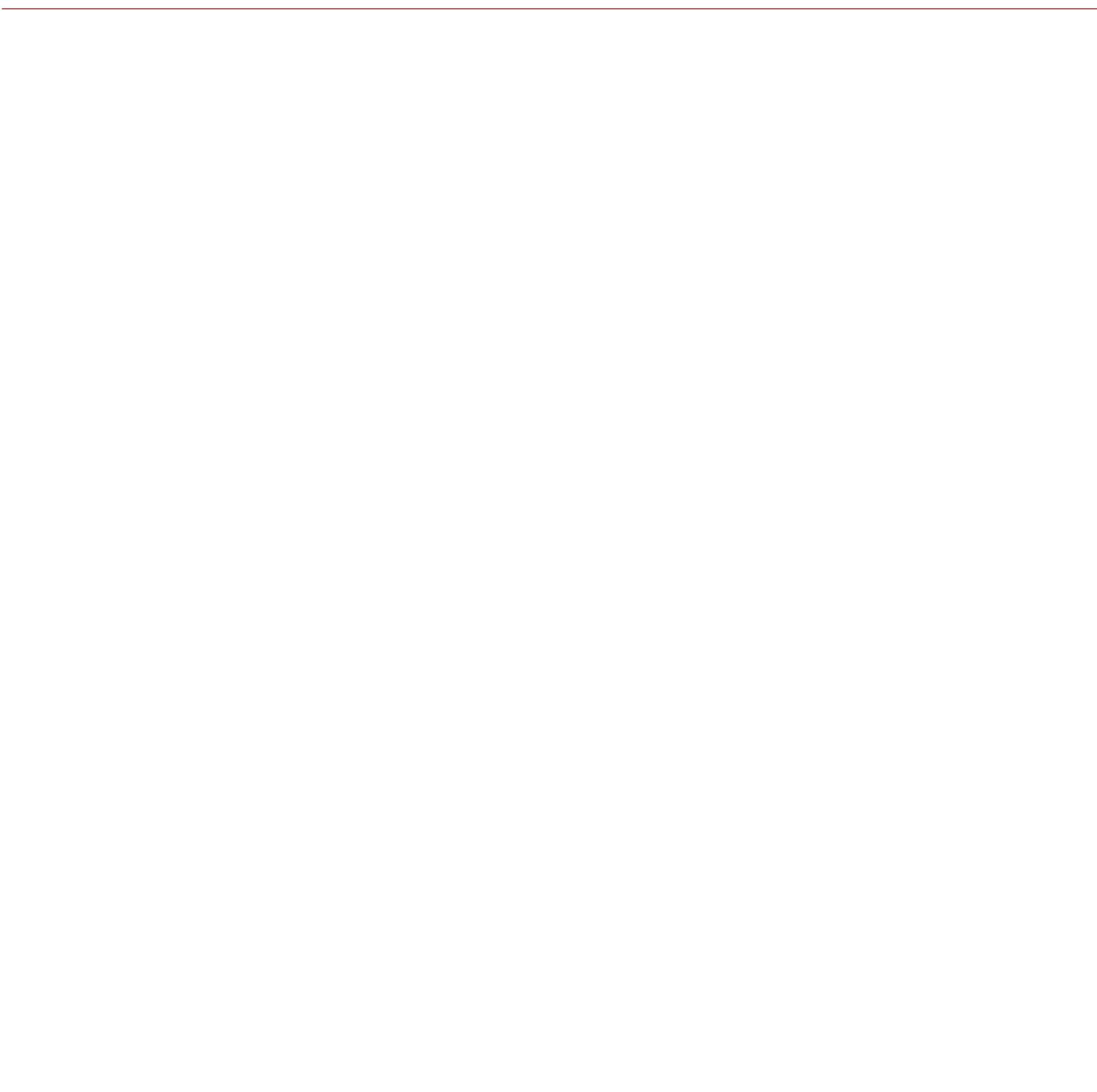
**IPCA**

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