

Section 2

Security Screening and Investigation of Complaints

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The Committee has a dual mandate under the *CSIS Act*: to review all CSIS activities and to investigate complaints about those activities. This section of the report deals with the second of the Committee's main responsibilities. In addition, since some of the complaints received arise out of the Service's security screening functions, our review of this part of the Service's mandate provides appropriate background and context for the subsequent discussion of complaints.

A. Security Screening

The Service has the authority, under section 13(1) of the *CSIS Act*, to provide security assessments to federal government departments. In addition, the Service may, with appropriate Ministerial approval, enter into arrangements to provide assessments to provincial government departments or provincial police forces, as outlined in section 13(2). Arrangements for the provision of security screening advice to foreign governments, foreign agencies and international institutions and organizations are authorized under section 13(3).

For federal employment, CSIS security assessments serve as the basis for determining whether an individual should be granted access to classified information or assets. In immigration cases, Service assessments can be instrumental in Citizenship and Immigration Canada's decision to admit an individual into the country and in granting permanent resident status or citizenship.

SECURITY SCREENING FOR FEDERAL EMPLOYMENT

2000–2001 Key Statistics

- The Service received 36 803 requests for security screening assessments for clearances, levels one through three, new, upgraded and updated. A preponderance of the total were for Level II clearances. In addition, 418 requests were for action relating to administrative procedures, such as transfers and downgrades.
- The average time required to complete a Level I security assessment was 32 days; for Level II, 41 days; and for Level III, 113 days.

Security Screening in the Government of Canada

The Government Security Policy (GSP) stipulates two types of personnel screening: a reliability assessment and a security assessment. Reliability checks and security assessments are conditions of employment under the *Public Service Employment Act*.

Basic Reliability Status

Every department and agency of the federal government has the responsibility to decide the type of personnel screening it requires. These decisions are based on the sensitivity of the information and the nature of the assets to which access is sought. Reliability screening at the “minimum” level is required for those persons who are appointed or assigned to a position for six months or more in the Public Service, or for those persons who are under contract with the federal government for more than six months, and who have regular access to government premises. Those persons who are granted reliability status at the basic level are permitted access to only non-sensitive information (i.e., information that is not classified or designated).

Enhanced Reliability Status

Enhanced Reliability Status is required when the duties of a federal government position or contract require the person to have access to classified information or government assets, regardless of the duration of the assignment. Persons granted enhanced reliability status can access the designated information and assets on a “need-to-know” basis.

The federal departments and agencies are responsible for determining what checks are sufficient in regard to personal data, educational and professional qualifications and employment history. Departments can also decide to conduct a criminal records name check (CRNC).

When conducting the reliability assessments, the federal government organizations are expected to make fair and objective evaluations that respect the rights of the individual. The GSP specifies that “individuals must be given an opportunity to explain adverse information before a decision is reached. Unless the information is exemptible under the *Privacy Act*, individuals must be given the reasons why they have been denied reliability status.”

Security Assessments

The *CSIS Act* defines a security assessment as an appraisal of a person’s loyalty to Canada and, so far as it relates thereto, the reliability of that individual. A “basic” or “enhanced” reliability status must be authorized by the government department or agency prior to requesting a security assessment. Even if a person has been administratively granted the reliability status, that individual must not be appointed to a position that requires access to classified information and assets, until the security clearance has been completed.

- Of the 3670 field investigations conducted, the largest number was for the Department of National Defence, followed by CSIS, the Department of Foreign Affairs and International Trade, the Communications Security Establishment and the Department of Public Works and Government Services.
- The Service received 37 128 requests for assessments under the Airport Restricted Access Area Clearance Program (ARAACP), which is under the authority of Transport Canada. The average turnaround time for a request under ARAACP was 32 days, a significant increase from last year's figure of 4 days. The Service attributed the difference to the volume of security screening requests and the resulting backlog of cases waiting to be processed.
- There were 1439 requests for security assessments related to "site access." These involve basic checks to provide clearances allowing an individual access to sensitive sites.
- With the RCMP acting as intermediary, the Service received 268 requests for accreditation to access the Parliamentary Precinct and 11 129 requests for accreditation to special events and functions to which access is controlled.

IMMIGRATION SECURITY SCREENING PROGRAMS

Under the authority of sections 14 and 15 of the *CSIS Act*, the Service conducts security screening investigations and provides advice to the Minister of Citizenship and Immigration Canada (CIC). Generally speaking, the Service's assistance takes the form of information-sharing on matters concerning threats to the security of Canada as defined in section 2 of the *CSIS Act* and the form of "assessments" with respect to the inadmissibility classes of section 19 of the *Immigration Act*.

Applications for Permanent Residence from Within Canada

The Service has the sole responsibility for screening immigrants and refugees who apply for permanent residence status from within Canada. In 2000–2001, the Service received 44 278 such screening requests.⁷ The median turnaround time for screening applications was 66 days—with an average of 60 days to process electronic applications and 195 days for paper applications.

7. This number includes 4217 requests for security screening of applications originating in the USA and processed in Canada.

Applications for Permanent Residence from Outside Canada

Immigration and refugee applications for permanent residence that originate outside Canada or the USA are managed by the Overseas Immigrant Screening Program under which the Service shares responsibility for security screening with CIC officials based abroad. Generally, CSIS only becomes involved in the screening process if requested to do so by the Immigration Program Manager (IPM) or upon receiving adverse information about a case from established sources. This division of labour allows the Service to concentrate on the higher risk cases.

In 2000–2001, the Service received 25 109 requests to screen overseas applicants. Of these, CSIS reported that 4433 applicant files were referred by IPMs to CSIS Security Liaison Officers (SLOs) for consultation from April 1 to December 31, 2000.

Nature of the Service's Advice to CIC

Requests for security screening in relation to immigration resulted in 216 CSIS briefs to CIC—167 inadmissible briefs and 49 information briefs. During the period under review, the average time taken for the Service to process a case involving a brief was about a year and a half. The Service sent 90 “incidental

letters” to CIC and 61 update letters. (See page 12 for a description of the Service's security screening briefs and other information-sharing mechanisms employed in aid of Canada's immigration programs.)

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Security Screening: Increased Turnaround Times

Overall, the times taken by CSIS to process requests from CIC rose significantly over those of previous years. The Service cited two main causes for the increased delays, both of which it regards as temporary. There had accumulated a significant number of overseas, “hard copy” cases, which take significantly longer to process than the Canada-based electronic cases. CSIS assured the Committee that it has eliminated this backlog and taken steps to prevent future backlogs. In addition, problems during the year in implementing new software combined with the necessary adjustments for the Y2K problem created further delays. The software difficulties are in the process of being resolved.

Citizenship Applications and the Watch List

As part of the citizenship application process, the Service receives electronic trace requests from CIC's Case Processing Centre in Sydney, Nova Scotia. The names of

citizenship applicants are cross-checked against the names in the Security Screening Information System database. The Service maintains a Watch List, which is made up of individuals who have come to the attention of CSIS through, *inter alia*, TARC-approved investigations and have received landed immigrant status.

In 2000–2001, the Service reviewed 161 895 citizenship applications. CSIS recommended that citizenship be denied in four instances and prepared information briefs in relation to 78 others. In one case, the Service sought Ministerial approval to defer its advice.⁸

A New Program: Refugee Screening

As discussed in the Committee's review of immigration security screening briefs (*see* page 12) the Service and CIC have recently concluded an agreement to conduct "Front-End Screening" of refugee applicants. Starting as a pilot project, facilities for exchanging electronic information are to be installed at five CIC sites across Canada.

SCREENING ON BEHALF OF FOREIGN AGENCIES

The Service may enter into reciprocal arrangements with foreign agencies to provide security checks on Canadians and other individuals who have resided in Canada. In the period under review, the Service concluded 995 foreign screening checks, 66 of which required field investigations. These investigations resulted in one information brief to the client.

B. Investigations of Complaints

In addition to the Committee's audit and review functions, we have the added responsibility to investigate complaints from the public about any CSIS action. Three kinds of complaints come within the Committee's purview:

- 1) Acting as a quasi-judicial tribunal, the Committee is empowered to consider and report on any matter having to do with federal security clearances, including complaints about denials of clearances to government employees and to contractors.

8. When the Service believes that it is not in a position to render a recommendation to CIC concerning a citizenship application, it must seek approval from the Solicitor General to continue investigating the case and "defer" providing the assessment.

- 2) The Committee can investigate reports made by federal ministers about persons in relation to citizenship and immigration, certain human rights matters and organized crime.
- 3) As stipulated in the *CSIS Act*, the Committee can receive at any time a complaint lodged by a person “with respect to any act or thing done by the Service.”

FINDINGS ON SECTION 41 COMPLAINTS RE: “ANY ACT OR THING”

During the 2000–2001 fiscal year, the Committee dealt with 69 complaints made in relation to section 41 of the *CSIS Act*. Of these, 52 were new complaints and 17 were cases carried forward from the previous fiscal year (*see* Table 2).

Complaints Related to Immigration Matters

Continuing a pattern set in recent years, many of the complaints conveyed to the Committee in 2000–2001 related to the Service’s role in Canada’s immigration program—34 cases in all.

Complaints Concerning Improper Conduct and Abuse of Power

The Committee dealt with 20 complaints in the period under review from persons who alleged that the Service had subjected them to surveillance, illegal actions or had otherwise abused its powers.

So as not to confirm indirectly which targets are of interest to the Service, the Committee does not as a rule confirm or deny if a complainant is the subject of a

Table 2
Complaints (April 1, 2000 to March 31, 2001)

	New complaints	Carried over from 1999–2000	Closed in 2000–2001	Carried forward 2000–2001
CSIS activities	52	17	30	39
Security clearances	0	4	2	2
Immigration	0	1	1	0
Citizenship	0	1	1	0
Human rights	0	1	1	0

CSIS targeting authority. Although this information is not provided to complainants, the Committee thoroughly investigates the complainant's allegations.

Through its investigations, the Committee assures itself that the Service's activities have been carried out in accordance with the Act, Ministerial Direction and CSIS policy. If we find that the Service has acted appropriately, we convey that assurance to the complainant. If the Committee identifies issues of concern, we share those with the Director of CSIS and the Solicitor General, and to the extent possible, report on the matter in our annual report.

During 2000–2001, most of the Committee's investigations into this type of complaint revealed that the Service was neither involved in, nor responsible for, the activities alleged by the complainant.

Complaints the Committee is Precluded from Investigating

The Committee received 26 complaints that it was precluded from investigating because the criterion set out in section 41 of the Act, which requires that complaints first be sent to the Director of CSIS, had not been met. The Committee responds to such complaints by outlining the requirements of section 41 and providing the address to communicate with the Director. The Committee is also precluded from investigating complaints in which complainants are entitled to seek redress through a grievance procedure established under the *CSIS Act* or the *Public Service Staff Relations Act*.

Misdirected Complaints

The Committee received 12 complaints that either did not involve the Service or were not related to matters of national security. In such cases, the Committee informs the individual that the complaint is not within our jurisdiction and, if possible, redirects the complainant to the appropriate authorities.

SECURITY CLEARANCE COMPLAINTS

The Committee dealt with four complaints under section 42 of the Act relating to security clearances in 2000–2001. Two cases, involving the revocation of security clearances, were completed; in one instance the complaint was withdrawn and, in the other, the Committee investigated and reached a decision, which is summarized in Appendix D. The other two complaints concerned Service recommendations to deny security clearances; the Committee's inquiries into these complaints continue.

FINDINGS ON MINISTERIAL REPORTS

Citizenship Refusals

In the ongoing matter of the citizenship application of Ernst Zündel—a matter first brought before the Committee in 1995—we were notified in December 2000 that Mr. Zündel was withdrawing his application for Canadian citizenship, and that this withdrawal had been accepted by Citizenship and Immigration Canada. In light of this information, there was no basis for continuing to investigate the matter. The Committee will not, therefore, issue a report on the matter to the Governor in Council pursuant to section 19(6) of the *Citizenship Act*.

Reports Pursuant to the *Immigration Act*

The Committee received no such Ministerial Reports during the period under review. As discussed in last year's Report, a case relating to a SIRC decision issued in 1998 (Yamani) was referred back to the Committee in March 2000 for reconsideration. The Committee has since been advised that Citizenship and Immigration Canada has decided not to pursue the matter. As a result, the case is no longer before the Committee.

CANADIAN HUMAN RIGHTS COMMISSION REFERRAL

The Committee received no Human Rights Commission referrals in the period under review. However, the investigation of a referral received last year was completed and reported to the Commission.