



SECURITY INTELLIGENCE
REVIEW COMMITTEE

SIRC Report 1999–2000

An Operational Audit of the
Canadian Security Intelligence Service



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Canada

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Collect calls are accepted, and the switchboard is open
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The Honourable Lawrence MacAulay, P.C., M.P.
Solicitor General of Canada
House of Commons
Ottawa, Ontario
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30 September 2000

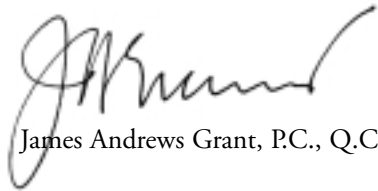
Dear Mr. MacAulay:

As required by section 53 of the *Canadian Security Intelligence Service Act*, we transmit to you the Report of the Security Intelligence Review Committee for the fiscal year 1999–2000, for your submission to Parliament.

Yours sincerely,



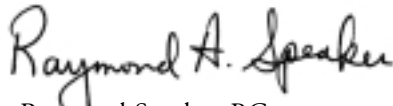
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Statement from the Committee

From the community of people who pay special attention to security intelligence matters—be they journalists, academics, parliamentarians, lawyers or intelligence professionals—we hear many views of what the Security Intelligence Review Committee should be doing and how. We know this because we make special efforts to solicit those views and create opportunities for them to be expressed, and because the interest of the media in security intelligence issues has rarely been greater than in the past year.

Not unexpectedly, the messages we receive are diverse and often contradict each other: “You take too much time”; “Your studies are not as extensive as they should be”; “You aren’t tough enough on CSIS”; “Your review process interferes with the vital business of ferreting out threats to the country.” From amongst these conflicting judgements about our work and how it relates to the task of the Service, one clear theme emerges. We continue to hear concerns about whether the system that governs the country’s security intelligence apparatus is adequately protecting individual rights.

The Committee has been made acutely aware of these concerns over the past year because of the outcome of three complaints about immigration security screening on which we rendered decisions. Despite our findings

that showed clearly that the Service had erred in the procedures used to conduct its investigations and in the advice it had given to the immigration authorities, three people continue to wait for their immigration status to be resolved.

Because the Committee’s mandate gives us the ability only to advise the Government on these matters, we can neither make directives nor change policies. Consequently, if the relevant government authorities fail to redress the wrongs our own investigations have identified, dissatisfaction with, and cynicism about, Canada’s system for dealing with immigration security screening matters can be expected only to grow—at the very least on the part of these three complainants and their legal counsel.

The Dilemma of Security Intelligence

More generally, the Committee understands that the public’s doubts about security intelligence have quite rational origins. One is the way in which security intelligence work in any democracy takes place, wherein the government gives a small group of people powerful and intrusive investigative powers and instructs them to tell almost nobody about what they are doing. The natural instinct of an aware citizenry is to wonder what on earth those people might be up to.

Another reason is grounded more specifically in the Canadian experience. Only two decades ago, the McDonald Commission laid out in painstaking detail the ways in which CSIS' organizational predecessor, the RCMP Security Service, was essentially out of control.

A third reason for concern stems from the profound social and economic changes wrought by technology and globalization. More than ever, Canadians inhabit a world of strongly competing loyalties—national, ethnic, religious and political—and although Canada is and should be open to all different kinds of people, Canadians are also aware that conflicts between these loyalties can sometimes take a violent form.

That Canada needs CSIS and the work it does, in the Committee's opinion, is not in doubt. But the mere existence of CSIS creates a dilemma for Canadian democracy: democratic government requires that its activities be as transparent as possible and that its institutions be accountable. At the same time, the essence of democracy is to balance conflicting interests in ways that best meet the collective interest—itself not always readily defined—of all citizens. Protecting that democracy and its citizens from serious threats sometimes calls for intrusive methods and requires that certain information about these activities be withheld from general knowledge. The resulting absence of hard facts leaves an information vacuum ready to be filled by speculation, suspicion and conspiracy theory.

An Elusive Balance

Although the legislation creating SIRC states that it is to “review” the activities of CSIS and report to Parliament, the Committee also sees its role as one of helping to address the challenges and dilemmas raised by the need to carry out security intelligence work out of public view. In all our activities, we strive to balance the need to protect individual rights with the state's obligation to protect against threats to Canada and Canadians.

One of the tools given to the Committee in grappling with these difficult, sometimes intractable issues was that of professional and independent inquiry. Specifically, the legislation states that the Committee is to have access “to any information under the control of the Service” relevant to the performance of its review duties. In short, we look at everything the Service does; we ask questions and then we ask more questions. We poke and prod and read and dig. As one might expect, CSIS sometimes gets impatient with us and is often displeased with our conclusions, but that is the Committee's job, which no other body in Canada is equipped to do.

It was in the context of our special mandate that, during the past year, we commented on a revised immigration law currently before Parliament. Bill C-31 would, among other measures, transfer from SIRC to the Federal Court a particular appeal process available to prospective immigrants about whom adverse information has been collected by the Service. In a report sent to the Solicitor General (under section 54 of the *CSIS Act*) about the new legislation, the Committee drew attention to SIRC's unique expertise in acting as the competent tribunal to handle appeals related to security intelligence and security screening matters—a capacity Parliament intended the Committee to have and which it has given to no other body. We believe that this proposal would remove important existing safeguards on the activities of CSIS that could have a serious negative impact on national security, on individual rights, or on both.

Reporting in the Public Interest

Another important function Parliament gave to SIRC was to report publicly. In this matter the legislation is less specific—the Committee must report to Parliament (and thus to the people of Canada) once a year about its activities. However, nothing is said about the nature of the reporting or how detailed it should be.

There are some who would prefer the Committee adopt a minimalist approach to its reporting tasks. Our job, they contend, is to assure Parliament that the Service is acting within the law and to leave it at that. However, from the beginning in 1984 and continuing to the present, Members of the Committee have adopted the view that more is better. Although our own reporting to Parliament and the people of Canada still suffers occasionally from the obfuscation made necessary by security concerns, the Committee has consistently pushed to deliver as much information as possible to the public. The Committee has fought and won countless small battles over whether a particular disclosure was damaging to national security or merely unsettling to the Service.

The main reason for the Committee's assertive approach to reporting is that we are mindful of the unique powers vested in us. The law and simple prudence about sensitive security matters dictate that the vast majority of citizens must trust in us to make sure that CSIS functions responsibly. As we have stated on other occasions, this trust must be earned and constantly nurtured.

The report that follows fulfills our legal obligation to Parliament, and we are ready and eager to discuss these and other matters with Parliamentarians. The report also reflects the Committee's continuous efforts to inform the public about security intelligence issues and draws together a year's work reviewing all facets of the Service's activities. Every study conducted, every query pursued, every complaint acted upon is reflected in its pages.

We hope that, in giving credit to CSIS when it is deserved, and pointing out shortcomings—and remedies—when and where we find them, the Committee can help replace speculation with fact and suspicion with trust.

How SIRC's Annual Audit Report is Organized

The report is organized to reflect the Committee's primary functions: first, to review CSIS intelligence activities, second, to investigate complaints about CSIS and associated matters, and third, to act in concert with other parts of the governance system to protect Canadians from threats to their security.

- Section 1 presents the Committee's review and audit of what the Service does and how it does it. The subsections represent the different methods the Committee employs to make these assessments.
- Section 2 deals with the Committee's role as a quasi-judicial tribunal with the power to investigate complaints of various kinds.
- Section 3 brings together under one heading—CSIS Accountability Structure—the Committee's review of the multiple administrative and legal mechanisms that hold the Service accountable to Government, Parliament, and the people of Canada.

As before, the report draws a clear distinction between Committee comments, observations and recommendations bearing directly on our major task—reviewing CSIS and associated activities for a certain period—and the more general background material we are making available with the aim of assisting Canadians and other readers to understand the context in which security and intelligence work is carried on.

Subjects the Committee believes will be of historical, background or technical interest to readers are set apart from the main text in shaded insets. Unlike the main body of the report, they do not reflect Committee opinion or conclusions as such and are intended to be factual in nature.

Each section of the audit report is labelled with the SIRC study from which it is abstracted. The full references are found in Appendix B.