

CSIS Accountability Structure

The Service is an agency of the Government of Canada which reports to the Solicitor General who in turn is accountable to Parliament. Because of the serious and potentially intrusive nature of CSIS activities, the mechanisms set out in law to give effect to that accountability are both rigorous and multi-dimensional; a number of independently managed systems exist inside and outside the Service for monitoring CSIS activities and ensuring that they accord with its mandate.

Part of SIRC's task (the Committee itself being part of the accountability structure) is to assess and comment on the functioning of the systems that hold the Service responsible to government and Parliament.

A. Operation of CSIS Accountability Mechanisms

MINISTERIAL DIRECTION

Under section 6(2) of the *CSIS Act*, the Minister can issue directions governing CSIS investigations. Also according to the *Act*, the Committee is specifically charged with reviewing directions issued by the Minister. We assess new directions when they are released by the Minister and examine how the Direction is applied in specific, actual cases.

National Requirements for Security Intelligence 1999–2000 and 2000–2001

National Requirements contain general direction from Cabinet as to where CSIS should focus its investigative efforts, as well as guidance on the Service's collection, analysis, and advisory responsibilities. The Committee received the 1999–2000 National Requirements in August 1999 and so was not able to report on them in last year's Annual Report. The 2000–2001 Requirements were received in a timely manner so both are addressed here.

Both sets of Requirements varied little from those of 1998–1999, reflecting a relatively unchanged threat environment. Changes that drew the Committee's attention were as follows:

- the list of groups identified as threats to national security under investigation by the Counter Terrorism Program was altered slightly;
- in addition to the mention of specific threats, transnational criminal activity is now more generally regarded as a threat to Canada's economic security and the integrity of government programs;
- CSIS was directed to increase its research and development efforts so as to keep pace with technological innovations and maintain its investigative capacities. CSIS was provided with 70 percent of the requested funding for this initiative.

CHANGES IN SERVICE OPERATIONAL POLICIES AND INSTRUCTIONS TO OFFICERS

No new policies were issued in the fiscal year under review. Existing policies amended in a material way addressed the following areas:

- Ministerial approval procedures for source operations in a sensitive institution;
- conflict of interest guidelines for human sources;
- the level of detail required in operational plans;
- information and intelligence disclosure caveats to reflect changes in the *Canada Evidence Act*.

DISCLOSURES OF INFORMATION IN THE PUBLIC AND IN THE NATIONAL INTEREST

Section 19 of the *CSIS Act* prohibits disclosure of information obtained by the Service in the course of its investigations, except in specific circumstances. Under section 19(2)(d), however, the Minister can

authorize the Service to disclose information in the “public interest.” The *Act* compels the Director of CSIS to submit a report to the Committee regarding all “public interest” disclosures. There were no such reports in 1999–2000.

In addition, CSIS can—in the role as the Minister’s agent—disclose information in special circumstances in the “national interest.” Service policy stipulates that the Committee must be so informed. There were no such disclosures during the year under review.

GOVERNOR IN COUNCIL REGULATIONS AND APPOINTMENTS

As set out in section 8(4) of the *CSIS Act*, the Governor in Council may issue any regulations to the Service in regard to the powers and duties of the Director of CSIS, and/or the conduct and discipline of Service employees. No regulations were issued by the Governor in Council in fiscal year 1999–2000.

CERTIFICATE OF THE INSPECTOR GENERAL

The Inspector General of CSIS reports to the Solicitor General and functions effectively as his internal auditor of CSIS, reviewing the operational activities of the Service and monitoring compliance with its policies. Every year the Inspector General must submit to the Minister a Certificate stating the “extent to which [he or she] is satisfied,” with the Director’s report on the operational activities of the Service and informing the Minister of any instances of CSIS having failed to comply with the *Act* or Ministerial Direction, or that involved an unreasonable or unnecessary exercise of powers. The Minister also forwards the Certificate to the Review Committee.

Between June 1998 and September 1999, the position of Inspector General of CSIS was vacant. As a result, no Certificate was issued by that office for fiscal year 1998–1999. On July 29, 1999, the Solicitor General of Canada announced the appointment of Maurice Archdeacon as the new Inspector General. Mr.

Archdeacon had been SIRC’s Executive Director since its establishment in 1985.

The Committee was informed that the Inspector General’s Certificate for 1999–2000 would be sent to the Solicitor General of Canada in Autumn 2000—too late for review in this report. We will comment on the new Inspector General’s first Certificate next year.

UNLAWFUL CONDUCT

Under section 20(2) of the *CSIS Act*, the Director of CSIS is to submit a report to the Minister when, in his opinion, a CSIS employee may have acted unlawfully in the performance of his or her duties and functions. The Minister, in turn, must send the report with his comment to the Attorney General of Canada and to the Committee.

In 1999–2000, no cases of unlawful conduct were brought to the Minister’s attention.

In last year’s report, the Committee commented on one report of possible unlawful conduct by an employee of CSIS. We learned that no decision had been taken by the Attorney General of Canada concerning this case.

We also commented on another case of unlawful conduct dating back to 1997 that was still pending. We have since been informed that both the criminal investigation and the Service’s internal inquiry into this matter have been concluded. The Service advised the Minister that it was unable to establish that the employee in question acted unlawfully in the performance of his or her duties and that following the criminal investigation, the Crown Attorney elected not to lay charges. In this matter, the Attorney General of Canada has yet to render a decision.

CSIS ANNUAL OPERATIONAL REPORT

The CSIS Director’s Annual Operational Report to the Solicitor General comments in some detail on the Service’s operational activities for the preceding fiscal

year. Among the functions of the Committee is to review this report.

Last year, the Committee did not receive the Service report in time for inclusion in our 1998–99 audit report. Therefore, we present that review here, as well as our comments on the 1999–2000 Director’s report.

Annual Operational Report for 1998–99

As in previous years, the 1998–99 CSIS Annual Operational Report contained extensive updates on CSIS investigations. However, this particular report was a departure from past practice in that it also addressed some strategic issues as well—notably a discussion of the technological challenges facing the Service. The Committee, in past reviews, had urged the Director to make greater efforts to provide commentary on significant global trends and policy issues with potential impact on Canadian security intelligence activities.

Annual Operational Report for 1999–2000

The Committee is particularly interested in the use made by Director of CSIS of the authority delegated to him by the Minister. Existing Ministerial Direction requires the Director to provide summaries of cases where delegated authority was in fact used.

In reviewing the 1999–2000 document, it appeared to the Committee that the manner in which the Director reported on these cases varied considerably. For instance, with respect to the use of human sources, the report provided summaries of each case. However, in other areas of Service activity—inter-agency co-operation, for example—the report discusses only the number of instances but omits further explanation.

In recent years, there have been clear improvements in the Annual Operational Report to the Minister. The Committee hopes that, in future, the report will be more consistent in providing descriptive summaries of the cases in which the Director has used powers delegated by the Minister.

SIRC INQUIRIES OF CSIS

Tracking and Timing of Formal Inquiries

In our review function we send questions to CSIS to request information or documents (or both) about its activities. In the 1999–2000 fiscal year (April 1, 1999 to March 31, 2000) we directed 107 formal inquiries to the Service, a slight decrease from last year. This figure does not include questions arising out of complaint cases.

In addition to formal questions, the Committee makes informal requests of CSIS. In all such cases for the year under review, the Service responded expeditiously to what were sometimes urgent queries.

Briefings

At its monthly meetings, the Chair and Committee Members meet with government officials to keep the lines of communication open and stay abreast of new developments. When meetings of the Committee are held outside of Ottawa, Members visit CSIS regional offices. The Committee met with senior CSIS regional managers in Montreal in September 1999 and Vancouver in May 2000. The balance of the Committee’s meetings were held in Ottawa.

B. Inside the Security Intelligence Review Committee

SIRC CHAIR REAPPOINTED

In June 2000, the Governor in Council reappointed the Honourable Paule Gauthier, P.C., O.C., Q.C., as Chair of the Committee for a five-year term.

NEW EXECUTIVE DIRECTOR APPOINTED

On November 1, 1999 the Honourable Paule Gauthier announced the appointment of Ms. Susan Pollak as the Executive Director of SIRC effective November 15, 1999.

Ms. Pollak began her public service career at the Communications Security Establishment (CSE) in 1973. Ms. Pollak was seconded to the Privy Council Office in 1984, and three years later, she accepted a position as principal advisor to the Deputy Clerk (Security and Intelligence, and Counsel). Since then, Ms. Pollak has held several senior management positions with the Treasury Board Secretariat, the Department of Fisheries and Oceans, and Natural Resources Canada.

ACTIVITIES ADDITIONAL TO CSIS REVIEW

- The Chair met with members of the House of Commons Standing Committee on Justice and Human Rights in February and March 2000 to discuss the role and functions of the Security Intelligence Review Committee and how SIRC can assist parliamentarians.
- A delegation from the United States General Accounting Office, a body of the US Congress, met with Committee Members in August 1999 to discuss a Congressional study of how other countries deal with terrorism.
- The Vice-President of France's Assemblée Nationale met with SIRC's Chair in September 1999 to discuss France's proposal to establish a parliamentary review body for intelligence matters.
- In October 1999 and again in January 2000, Members met with Canada's Minister of Citizenship and Immigration. The Committee also met with the Director of CSIS on two occasions: October 1999 and March 2000. In February 2000, the Committee met with the Deputy Secretary to the Cabinet, Security and Intelligence, who discussed her mandate in the Privy Council Office and current issues.
- In September 1999, Members accepted a long-standing invitation to meet with the Special Services Committee of Poland's Sejm (parliament). The purpose of the visit was to exchange information about the review process in new democracies. The Committee also travelled to the Czech Republic to meet with SIRC's counterpart there and with senior officials of that country's intelligence services.
- At the invitation of the Parliament of South Africa's Joint Standing Committee on Intelligence (JSCI), Committee Members travelled to South Africa to meet with JSCI members, the Minister of Intelligence Services, the Inspector General and senior intelligence service officials.

Table 3
SIRC Expenditures

	2000–2001 (Estimates)	1999–2000 (Actual)	1998–1999 (Actual)
Personnel	1 089 000	841 945	715 036
Goods and Services	962 000	821 055	656 730
Total	2 051 000	1 663 000	1 371 766

- In June 2000, the Committee's Counsel, Sylvia Mackenzie, participated in a Vancouver conference sponsored by the Canadian Council for Refugees.

ON THE INTERNET

All SIRC Annual Reports, dating back to 1984–85 when the Committee was created, are now accessible through our Web site (www.sirc-csars.gc.ca). The site offers information ranging from biographical information on the members of the Committee, to a list of Committee studies that is updated regularly. A “What’s New” hot link provides updates on SIRC activities, and other pages link readers to more sites of interest. In addition, the SIRC Web site describes procedures for filing complaints about CSIS activities and the denial of security clearances, as set out in sections 41 and 42 of the *CSIS Act*.

BUDGET AND EXPENDITURES

For 15 years the Committee has managed its activities within the resource levels established in 1985. In 1999–2000, the Committee experienced a significant increase in the number of quasi-judicial (complaints) proceedings with a concomitant impact on non-discretionary expenses (*see* Table 3).

Other major items of expense include:

- planned upgrades to the security-certified computer infrastructure—costly technology needed to support the Committee's functions and to meet the stringent security requirements for handling highly classified information;
- Committee Members' travel expenditures within Canada and for travel abroad at the invitation of other countries wishing to benefit from Canada's experience in review activities;
- staff salaries and benefits—for the first time since 1997, the Committee has had its full complement of researchers and Committee Members.

STAFFING AND ORGANIZATION

The Committee has a staff of 15: an executive director, a counsel/senior complaints officer to handle complaints and ministerial reports, two complaints officers (one of whom is the Committee registrar for hearings), a deputy executive director, a research manager, a senior policy advisor, a senior analyst/media liaison officer, three senior research analysts, a financial/office administrator, and an administrative support staff of three to handle sensitive and highly-classified material using special security procedures.

At its monthly meetings, the Members of the Committee decide formally on the research and other activities they wish to pursue and set priorities for the staff. Managing the day-to-day operations is delegated to the Executive Director with direction when necessary from the Chair in her role as the Chief Executive Officer of the organization.