

Appendix C

Key Findings and Recommendations

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CSIS INVESTIGATION OF SUNNI ISLAMIC EXTREMISM

CSIS's investigation of Al Qaida specifically and Sunni Islamic terrorism generally was complex and of long-standing. The Committee's inquiries for this study were chiefly informational in nature, designed to survey the Service's activities in the months leading up to September 11—information and analysis we regard as prerequisites for any additional examinations. The nature of the Committee's inquiries necessarily influenced the sorts of conclusions that we drew from the information reviewed. For example, the Committee did not examine all the raw intelligence collected by the Service or passed to it from other agencies. Nor did we review specific warrants or delve into the handling of individual human sources with a view to ensuring compliance with law and policy.

The Committee's review covered the period April 1, 2001 through September 12, 2001. However, to complete our investigation we examined additional documents and data we deemed relevant that fell outside the formal review period. The objectives of this overview study were fourfold:

- 1) to gain a broad understanding of the reach and focus of the Service's investigation of Sunni Islamic extremist activities;
- 2) to determine the nature and quantity of assessments, analyses and other forms of advice about the threat transmitted by CSIS to relevant government and law enforcement clients;
- 3) to review the character and quantity of information exchanges about Sunni Islamic extremist activities with the intelligence services of allied nations; and,
- 4) to identify subjects meriting further study by the Committee.

The Committee believes that the Service disseminated widely within government timely information about the potential for Sunni terrorism. Although none of the intelligence products or threat warnings we reviewed pointed directly to the events of September 11, the Service clearly was aware of the potential for Al Qaida-inspired terrorist attacks of some kind and communicated this information to the appropriate bodies in government. In the Committee's view, however, none of the advice or communications the Committee reviewed warned of a

threat sufficiently specific in time or place to have alerted government authorities to the events of September 11.

This study has laid the foundation for future in-depth inquiries into specific elements of the Service's Sunni Islamic extremist investigation. We will elaborate on our findings in future reviews and annual reports.

SOURCE RECRUITMENT

This study arose from Committee findings in a previous complaint case. Our report on the complaint identified several shortcomings in Service procedures for recruiting certain kinds of human sources and the Committee expressed its intention to undertake a follow up review at a future date. The goal of this study was to re-examine the Service's source recruitment practices in this most sensitive area.

Overall, the Committee found that the human source operations we reviewed were carried out in conformity with law, Ministerial Direction and policy. The files we examined showed that the Service conducted itself appropriately and in accordance with policy adjustments made in the wake of the Committee's previous report. The Committee's review did identify two administrative shortcomings in the management of source files. Two recommendations—which for reasons of national security cannot be elaborated on here—were made by the Committee to CSIS with the aim of avoiding similar difficulties in the future. The Committee stressed to the Service that it should continue making every effort to ensure that sources are fully aware of the nature of their relationship with the Service.

DOMESTIC EXTREMISM

For over a decade, CSIS has conducted periodic investigations in this area on the basis that the activities being investigated represented threats to public safety and to national security. This study is one of several examinations by SIRC of the Service's activities in the area.

As in previous cases, the aim was to determine whether the Service had reasonable grounds to suspect that the activities of the targeted groups and individuals represented threats to the national security of Canada; whether the Service's recruitment and management of human sources was appropriate; and, whether CSIS acted in compliance with the *CSIS Act*, Ministerial Direction and relevant operational policies.

With respect to the investigations conducted under the issue-based targeting authority, the Committee found that the Service had reasonable grounds to

suspect an imminent threat of politically motivated violence, that the level of the investigations was appropriate to the nature of the threat; and, that all the information reported met the "strictly necessary" test.

The second targeting authority the Committee reviewed named a particular organization. Here too, the Service conducted its investigations in an appropriate and lawful manner. It was clear to the Committee that in one specific instance, information gathered during the investigation helped to minimize the potential for serious violence.

In connection with our review of the Service's investigation, the Committee selected a number of human source cases for extensive audit. In each case, the Committee was satisfied with the Service's recruitment and direction of the source and found CSIS to have been diligent in complying with operational policy requirements. The Committee found the nature and level of co-operation between the Service and other domestic agencies to be both appropriate and productive. The Committee took special note of the high level of information sharing between CSIS and the RCMP.

The Committee's only reservation arose from a review of information collected under a TARC authority in the year prior to its expiration. It was evident to the Committee that the organization no longer posed a threat of politically motivated violence as defined under section 2(*d*) of the *CSIS Act*. It is the Committee's view that the Service should have considered terminating the investigation before the mandated expiry date. In response to our concerns, the Service stated that it required the full 12 months of investigation to assess accurately the group's potential for engaging in politically motivated violence.

COLLECTION OF FOREIGN INTELLIGENCE

The goal of the audit was to:

- Review CSIS's role in section 16 (foreign intelligence) requests to ensure compliance with the *CSIS Act*, directions from the Federal Court, any related Ministerial Direction and the governing 1987 and 1990 memoranda of understanding.
- Examine the nature of the CSIS/CSE relationship as it relates to section 16 matters to ensure that it complies with the law, Ministerial Direction and operational policy.

- Understand the role of client feedback in how the Service prepares intelligence products for its clients in government.

In all areas of the Committee's examination of the Service's collection of section 16 information in the year under review, the Committee found CSIS to be in full compliance with law and policy. The Service appeared to weigh feedback from government clients and make adjustments where appropriate.

CSIS LIAISON WITH FOREIGN AGENCIES: AUDIT OF AN SLO POST

As with all Committee SLO post audits, the essential goals were to ensure that relationships and contacts with foreign agencies complied with the specific arrangements that govern them, and to monitor the controls over information disclosed to foreign agencies or received from them. More broadly, the activities of the selected post for the period under review—April 1, 1999 through March 31, 2001—were examined in the context of the *CSIS Act*, Ministerial Direction and CSIS operational policies.

Our observations, reviews of documentation and interviews all led the Committee to conclude that the SLO post was effectively managed and its staff held in high regard by the senior staff of the mission. The Committee examined both the documentation prepared for disclosure by the SLO to foreign agencies and the information exchanged between CSIS HQ and the post. With only a few minor exceptions, all the disclosures prepared by the SLO complied with approved procedures.

With respect to SLO assistance to Citizenship and Immigration Canada in the form of immigration security screening, it was evident to the Committee that growing work volumes posed challenges that continue unabated. The Committee believes the Service may need to reconsider whether temporary staff assignments are the best means of handling the growing workload. It is important to note that notwithstanding the demands imposed by the immigration security screening program, the Committee saw no evidence that the post was failing to meet its obligations.

In past reviews, the Committee has emphasized the importance it places on the Service's responsibility to take all possible care to ensure that the information it exchanges with foreign agencies is not used in ways that could result in violations of human rights. From our review of the Agency Assessments prepared by the SLO post, the Committee was satisfied that the assessments were complete and properly carried out.

WARRANT REVIEW

Through a regular examination of a sample of cases in which CSIS has acquired and implemented warrant powers, the Committee gains insight into the Service's core investigatory activities. From among the warrants issued in 2000–2001, the Committee selected one counter terrorism warrant and one counter intelligence warrant. In reviewing both warrants the Committee found that, on the whole, the Service managed each warrant properly and in compliance with both the *CSIS Act* and Ministerial Direction.

Several instances drew the Committee's attention, however. In the first, our examination identified several minor instances in which affidavits were not consistent with the supporting documentation. Although none of the errors were material in nature, the Committee believes strongly that CSIS must continue to pay scrupulous attention to its affidavit drafting procedures. Accordingly, the Committee recommended that,

CSIS should strive for the utmost rigour in its warrant acquisition process, ensuring that allegations in the affidavit are factually correct and adequately supported in the documentation.

In the second, the Committee identified a small number of instances where CSIS collected personal information which the Committee felt was of questionable relevance to the targets' threat-related activities. The Service disagreed with our observation.

Given the centrality of the "strictly necessary" test to the integrity of the intelligence gathering process, the Committee felt prompted to make a formal recommendation. Accordingly, the Committee recommends that,

CSIS should maintain a strict awareness of the conditions stated in Federal Court warrants and of the "strictly necessary" test outlined in section 12 of the *CSIS Act* so that its collection of information continues to meet legal and policy directives.

With respect to the Service's compliance with its own operational policy requirements and administrative practices we identified a number of shortcomings in the implementation of one warrant. Although none had materially affected the overall management of the warrant, the Committee made four recommendations to the Service designed to avoid future problems. Two were recommendations to amend or clarify specific policies so that they could be implemented more

consistently. A third spoke to the need for the Service to adhere to a specific existing policy more consistently.

Giving rise to the fourth recommendation was an instance in which a particular administrative oversight had the potential of creating the perception that the Service was implementing warrant powers after the warrant had expired. Although the Committee determined that the warrant was properly managed by the regional office concerned, we did recommend to the Service that it adopt a new administrative procedure that would eliminate the potential for ambiguity.

CSIS FUNDING FOLLOWING EVENTS OF SEPTEMBER 11

In its December 2001 budget, the government allocated an additional \$7.7 billion for the purpose of enhancing the personal and economic security of Canadians. \$1.6 billion of this total was to augment the nation's intelligence gathering and policing capacity. Beginning almost immediately after the events of September 11 and extending into future years, CSIS received authorities for increased spending of 30 percent for 2001–2002 with smaller increments in years following. By 2006–2007 the Service's budget will have increased by 36 percent over the level in 2000–2001.

The Committee sought and received briefings and other detailed, classified information from the Service on various elements of its spending plans. The Committee will continue to inform itself on the issue as the new funds come on stream in future years.