

**The Missing Agency: The Case for a
Canadian Foreign Intelligence Service**

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Contents

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| Acknowledgements | 3 |
| Abbreviations and Acronyms | 4 |
| Introduction | 5 |
| Research Question and Literature Review | 7 |
| History of Ottawa’s Reluctance to Create a Foreign Intelligence Service | 9 |
| The Canadian Foreign Intelligence Apparatus and Its Shortcomings | 12 |
| Communications Security Establishment..... | 12 |
| Canadian Security Intelligence Service..... | 14 |
| Privy Council Office | 15 |
| Department of National Defence..... | 16 |
| Department of Foreign Affairs and International Trade | 17 |
| Shortcomings at the Political Level | 19 |
| Canada’s Needs and the Threats to Its National Interests | 20 |
| Economic and Trade Intelligence..... | 20 |
| Military and Peacekeeping Operations | 22 |
| Terrorism..... | 24 |
| Arguments For and Against a Foreign Intelligence Service | 25 |
| Establishing the Canadian Foreign Intelligence Service | 34 |
| Creation and Positioning Within the Government | 34 |
| Size and Cost..... | 35 |
| Role and Operations | 37 |
| Conclusion | 38 |
| Endnotes | 41 |
| Appendices | 48 |
| Chronology of Significant Events in Canadian Intelligence History..... | 48 |
| Canadian Departments and Agencies with Security and Intelligence Roles | 52 |
| Sections 1 to 20 of the Canadian Security Intelligence Service Act..... | 53 |
| Personal Email Correspondence..... | 60 |
| Bibliography | 64 |

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Abbreviations and Acronyms

| | |
|-----------|---|
| ASIS | Australian Secret Intelligence Service |
| CBRN | chemical, biological, radiological and nuclear |
| CF | Canadian Forces |
| CFIS | Canadian foreign intelligence service |
| CIA | Central Intelligence Agency (USA) |
| CNN | Cable News Network (USA) |
| CSE | Communications Security Establishment |
| CSIS | Canadian Security Intelligence Service |
| DCI | Director of Central Intelligence (USA) |
| DFAIT | Department of Foreign Affairs and International Trade |
| DND | Department of National Defence |
| HUMINT | human intelligence |
| IAS | Intelligence Assessment Secretariat |
| ISD | Security and Intelligence Bureau |
| J2/DG Int | Director General Intelligence Division |
| NATO | North Atlantic Treaty Organisation |
| NSA | National Security Agency (USA) |
| OSINT | open source intelligence |
| PCO | Privy Council Office |
| RCMP | Royal Canadian Mounted Police |
| RCMP/SS | Royal Canadian Mounted Police Security Service |
| SIGINT | signals intelligence |
| SIRC | Security Intelligence Review Committee |
| SIS | Security and Intelligence Secretariat |
| SIS | Secret Intelligence Service (UK) |
| WTO | World Trade Organization |

Introduction

Although Canada is one of the safest countries in the world, it does not have the tools to defend itself adequately against threats from abroad. Over the years, Canada has developed a security and intelligence community mainly focused on combating domestic threats. By neglecting the importance of foreign threats, Canada has forsaken the idea of creating a service tasked with the collection of secret intelligence abroad. To this day, Canada does not have a Canadian foreign intelligence service (CFIS). This dissertation asserts that such an agency should be established to adequately protect and promote Canada's national interests.

Canada continues to suffer from the absence of a foreign secret intelligence agency. During the Cold War, focus was on signals intelligence while human intelligence was mainly directed towards domestic threats within Canada. But today, the globalisation of business, travel, communication and conflict calls for accurate and timely intelligence on the intentions and capabilities of foreign states and persons.

The debate about establishing a CFIS has been going on for decades now but the literature on this specific issue is scarce. This is mainly due to oversensitivity to secrecy and general disinterest among Canadian officials and citizens. A few journal articles addressed the question in depth but the rest of the literature is made of fragments scattered among several books, public reports, conference papers, and newspaper articles. Often, the arguments are repetitive since few individuals have put the time and energy to analyse the issue in detail. Among these individuals are Alistair Hensler and Ted D'Arcy Finn who both produced in-depth articles on the topic.¹ However, the literature on the issue of creating a CFIS still lacks a multi-disciplinary study that would investigate all its aspects: political, economic, strategic, diplomatic, administrative, etc. Moreover, officials have always been overly reluctant to debate the matter in public, leaving many questions unanswered.

The nature of the thesis statement requires the rigorous analysis of the entire existing literature and the presentation of a historical background. At the same time, this dissertation

advocates a specific policy and presents suggestions that a strictly historical dissertation would not include. The methodology will serve a two-fold purpose: provide a comprehensive reference tool for future academic studies and serve as a base for further discussion on this controversial issue. In practice, the methodology will consist of analysing primary and secondary sources as well as interviews of individuals with expertise or relevant experience. The product of this analysis is used to prove my thesis statement.

The first chapter presents the research question in greater detail as well as the literature review. Chapter two presents a brief history of Ottawa's reluctance to the idea of establishing a foreign intelligence service.² The third chapter describes the foreign intelligence apparatus and its shortcomings. Chapter four identifies four areas in which Canada greatly needs foreign intelligence. In chapter five, most of the arguments in favour and against the establishment of a CFIS debated in the literature are analysed and discussed. Finally, chapter six introduces suggestions, ideas and opinions about the actual establishment of a foreign intelligence service in Canada, including questions on the positioning, size, cost, role, and tasks.

This dissertation is about Canadian foreign secret intelligence provided by human sources. It does not address issues pertaining to domestic security intelligence or technical sources of intelligence. Throughout this dissertation, the term foreign intelligence is used to define information related to 'the capabilities, intentions or activities of a foreign state, foreign national or foreign organization (including commercial enterprises).'³ Foreign intelligence is information used to promote the national interest and 'to anticipate events, consider alternatives, and take decisive action.'⁴ Finally the concept of foreign intelligence used in this dissertation refers to secret intelligence that is not available by overt means of collection.

Foreign intelligence should not be confused with security intelligence. In a Canadian context, both concepts are related to the protection of Canada's national interest. However, security intelligence constitutes information collected to preserve the national interest from threats to national security⁵, not to promote it. Presently, security intelligence can be collected

within or outside Canada while foreign intelligence can only be collected within Canada. The missing element – foreign intelligence collected outside Canada – is precisely the subject of this dissertation.

Research Question and Literature Review

The focus of this dissertation lies on the controversial statement that Canada needs to create a foreign intelligence agency. This broad topic calls for the discussion of several related issues. This dissertation addresses the issue of why Ottawa chose not to establish a CFIS in the first place. It also answers how Canada collects foreign intelligence today and if the existing foreign intelligence apparatus is adequate. It discusses some of Canada's needs relating to foreign threats and foreign affairs. Furthermore, this dissertation identifies the arguments in favour and those against the establishment of a CFIS. Finally, it looks at the actual creation of a CFIS, addressing issues pertaining to its mandate, its positioning, its size and cost, and its operations.

The significance of such a debate is obvious. The post-Cold War international context where enemies are less clearly identifiable and where diplomatic allies are often fierce commercial adversaries calls for new strategies and new tools. Within that context, Canada stands as a world leader in many areas of technology including some related to armament and defence. Its expertise as well as its geo-strategic location make it an interesting target for friendly as well as unfriendly countries. Without a CFIS to gather the relevant intelligence, Canada is in an inferior position when dealing with friendly countries and when trying to assess a potential threat stemming from unfriendly countries. This dissertation will shed some light on this controversial issue and will demonstrate the urgent need for Canada to get serious about providing Canadians with the crucial information they need.

This debate is not new and dates back to the end of the Second World War during which Canada had been, for the first time, involved in intelligence operations abroad.

However, it is only very recently that the issue of a CFIS was publicly addressed by government officials. Consequently, much of the existing literature available on the topic comes from academics, former officials, and journalists. In 1981, the discussion was revived after some fourteen years of being dormant when the Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police – also known as the McDonald Commission – presented its report in which it addresses the question whether Canada should have a foreign intelligence service.⁶ The discussion is very brief and the conclusion of the Commission is not only vague but also takes the form of a mere *suggestion* instead of a *recommendation*, which would have forced the government to address the issue officially. Since then, some very useful contributions have been made to the literature on the pros, the cons, and the hypothetical creation of a Canadian foreign service.

John Starnes addressed the issue the most often. His first contribution to the debate appeared in Maclean's magazine in 1982⁷ following the report of the McDonald Commission. While his 1982 article strongly criticised the Commission's suggestion, a study of his work on the subject shows a softening of his position in his subsequent articles and book. The sometimes overly critical tone of his articles affects the credibility of his arguments⁸ but overall, his contributions raise interesting questions.

Other major contributions include a 1993 article written by the first director of CSIS (1984 to 1987) Thomas D'Arcy Finn⁹, and another by former CSIS senior employee Alistair Hensler published in winter 1995.¹⁰ Both bring valuable arguments to the debate, especially since Finn's and Hensler's opinions differ; Hensler is in favour while Finn disapproves of the idea to create a CFIS.

In addition, two unpublished documents obtained through the Security Intelligence Review Committee (SIRC) are worth mentioning. The first one, a paper written for SIRC by Peter Russell in 1988, offers an interesting perspective from a political science professor.¹¹ His work offers rarely-mentioned arguments but the fact that it was prepared fourteen years ago, before the fall of communism, greatly affects its relevance for the present situation. The

second document, classified ‘secret’ when drafted in January 1994 and then released in an expurgated version in July 1995, presents a very concise report on ‘current practices and statutory restrictions on the collection of intelligence abroad.’¹² The document lacks some depth in its arguments although its conciseness makes it a practical starting point for further debate.

Finally, it seems that no publicly available government publication really addresses the specific issue of the need for a CFIS – or at least not enough to mention it. The rest of the available literature is made of newspaper articles of variable quality, and of university theses¹³. Taken as a whole, the literature on the question of a foreign intelligence service remains limited.¹⁴ General literature on the history of Canadian intelligence services is also rare; as official RCMP historians rightfully note, ‘[i]t is curious that there is not more published material available on the history of our intelligence services.’¹⁵

History of Ottawa’s Reluctance to Create a Foreign Intelligence Service¹⁶

Canada did not follow the example of other Western states which maintained or established foreign secret intelligence agencies after the Second World War. Canada was taking an important decision that was to affect its international position in the intelligence arena. Alistair Hensler, who retired in 1995 from a senior position in CSIS, presents in his 1995 article an interesting account of why Ottawa chose a different course and decided not to establish a foreign intelligence service at the end of the war.¹⁷

During the Second World War, Canadians, alongside the British, got involved for the first time in foreign intelligence operations and in 1945, Ottawa had to ask itself whether to create its own agency. The answer was negative and in his article, Hensler argues that the attitudes of two key individuals influenced that decision: Norman Robertson and George Glazebrook. Robertson was Under-Secretary of State for External Affairs during and after the war, and Secretary to the Cabinet. Glazebrook was a senior officer of the Department of

External Affairs, he was an advisor to and confidant of Robertson, and he held responsibility for the Examination Unit, the predecessor of CSE.¹⁸

Hensler explains that Robertson did not establish a formal structure to deal with the broad issue of foreign intelligence. By making decisions personally or seeking advice from the War Cabinet only, he kept virtually everybody in the government ignorant of issues related to foreign intelligence. Secondly, Prime Minister Mackenzie King never really understood either foreign or security intelligence and Hensler argues that he probably disliked both. Another reason for the decision not to establish a foreign intelligence service is that no one in the Canadian government developed an appreciation of the potential benefits of foreign intelligence.

In addition, Glazebrook – who led with Robertson the development of a post-war Canadian intelligence community – had little experience with HUMINT and even developed a distaste for spying in general. While he could justify the continuation of Canada's communications interception capacity in the post-war period, he regarded other aspects of foreign intelligence as war-time expedients that should end with the war.¹⁹

Only the military Chiefs of Staff appeared to appreciate the potential benefits of creating an organisation dedicated to the collection of foreign intelligence in the post-war period.²⁰ But ministers and officials were simply not interested in any proposal to establish such a service; in fact, the issue was never studied in a comprehensive way. Canadian policy makers were unable or unwilling to conceptualise the role of a foreign intelligence service in a period of relative peace. The agency was therefore not created although the debate remained alive.

In the 1970's, Robertson maintained his opposition to the idea of a Canadian foreign intelligence service and the *status quo* prevailed. In its 1981 report, the McDonald Commission suggested further study on the possible establishment of a foreign intelligence agency but since it was not a formal *recommendation*, the Trudeau government of the time was under no obligation to address the issue formally. In 1989, five years after the creation of

CSIS, the Security Intelligence Review Committee recommended that Section 16 of the *CSIS Act*²¹ be amended to permit the Service to collect foreign intelligence abroad²² but the government decided not to act on SIRC's recommendation.

Hensler gives two other reasons explaining why officials in Ottawa persist in their decision not to create a CFIS. First, officials often cite the argument of the possible loss of reputation when opposing the idea, assuming that a foreign secret intelligence service necessarily implies to dirty their hands. Secondly, it seems that Canadians still feel they do not need spies and probably never will in their middle-of-the-group position; Canada, they smugly feel, is above spying. That sense of moral superiority, probably reinforced by the Canadian involvement in peacekeeping operations, peace treaties and the protection of human rights, strongly encourages the *status quo*.

The modest debate on the establishment of a Canadian foreign intelligence capacity in the last 30 years did not trigger much discussion within the government but the official answer always remained the same. Ottawa has recently reaffirmed that it was not convinced of the need for a foreign intelligence service. In April 2002, Deputy Prime Minister John Manley announced that Canada had suspended the idea of creating its own foreign intelligence agency, saying: 'I don't see it as an immediate priority. I think it is one of those deeper issues which requires a lot more careful thought and consideration. In the meantime I think the resources we're giving CSIS enable it to do more collection of information from outside Canada.'²³

Canada still thinks today that the financial cost, the political risk and the absence of clear and present threats to Canadian national security militate against the creation of a foreign intelligence service. But over the years, Ottawa assigned foreign intelligence functions to several government agencies and departments.

The Canadian Foreign Intelligence Apparatus and Its Shortcomings

The Canadian security and intelligence community is made of several agencies and organisations located within eight departments of the government. Together, they have the mandate to contribute to the safety and security of Canadians.²⁴ At the present time, five organisations have a foreign intelligence mandate and they will be presented here with an analysis of the gaps and shortcomings impeding on them, resulting from the absence of a capacity to collect secret foreign intelligence abroad.

In addition to these five organisations, the Canadian government seems to have wanted to add another ‘informal’ one: the Canadian people itself. Following the attacks of 11 September 2001, Canada enacted a new law²⁵ providing, among other things, for the amendment of the *Criminal Code*²⁶. Section 4 of the new law amends the *Criminal Code* by adding Section 83.1 which reads: ‘Every person in Canada and every Canadian outside Canada shall disclose forthwith to the Commissioner of the [RCMP] and to the Director of the [CSIS] (a) the existence of property in their possession or control that they know is owned or controlled by or on behalf of a terrorist group; and (b) information about a transaction or proposed transaction in respect of property referred to in paragraph (a).’²⁷ The legislation is still too young to clearly assess its impact on the acquisition of foreign intelligence but this new ‘obligation’ virtually turning Canadian into informants seems very controversial to me, to say the least.²⁸

Communications Security Establishment

Located within the Department of National Defence, the Communications Security Establishment (CSE) is the Canadian SIGINT agency responsible for code-making and code-breaking. ‘It provides the government with foreign intelligence by collecting, analysing and reporting on foreign radio, radar and other electronic signals.’²⁹

CSE acquires foreign SIGINT and ‘relies on its closest foreign intelligence allies the US, UK, Australia and New Zealand to share the collection burden and the resultant intelligence yield.’³⁰ But the relationship between the CSE and its American counterpart, the National Security Agency (NSA), seems more like a dependence. As mentioned by former CSE employee Mike Frost, ‘[t]he relationship between the NSA and CSE is quite close. The NSA is very much the Godfather, the CSE the little boy that says yes sir, no sir.’ Frost explains that, in the 1970’s, the installation of intercept equipment in Canadian embassies was actually pressed upon CSE by NSA.³¹

This is probably CSE’s main problem: a serious lack of independence from the United States. In its intimate paternal relationship with CSE, the NSA provides its Canadian counterpart with training, advice, counsel and equipment but also imposes targets and priorities on CSE.³² In addition, CSE’s resources do not allow it to process the vast amount of intelligence that it collects for Canada and its allies. Therefore, an important portion of the raw data intercepted by CSE monitoring stations makes its way to NSA headquarters at Fort Meade, Maryland to be processed.³³ Not only do the Americans benefit from the Canadian intercepts but they can freely alter or censor the processed intelligence they send back to Canada in order to keep significant information for themselves.

It would be unrealistic to believe that CSE could acquire enough human and technical resources to become independent from the powerful NSA. In addition, new technologies make cryptology available to, for example, businesses, criminals and terrorists. Consequently, ‘it is not difficult to envision a diminuation [sic] of the utility of CSE’s product. The government should, therefore, be seeking alternate methods of intelligence collection, including the broader use of human sources abroad.’³⁴ As Professor Wesley Wark points out, ‘if a crisis comes along and you want to monitor the communications of a foreign state, you better hope you’ve got an agent with a backhoe who knows where the fibre optic cables are.’³⁵

Canadian Security Intelligence Service

In July 1984, the *CSIS Act*³⁶ established a new civilian security intelligence service to completely replace the RCMP Security Service (RCMP/SS).³⁷ Its mandate is to investigate activities which may reasonably be suspected to constitute threats to Canada's national security,³⁸ to conduct security assessments for government departments and agencies and for immigration, citizenship and refugee applicants,³⁹ and finally to 'assist in the collection of foreign intelligence within Canada at the request of the Minister of Foreign Affairs or the Minister of National Defence.'⁴⁰

At a recent conference, CSIS Director Ward Elcock clarified the role of CSIS in foreign intelligence collection: '[t]here is nothing in the legislation that prohibits us from collecting information on these threats from anywhere in Canada or – and what is more to the point – anywhere abroad.'⁴¹ Indeed, Section 12 does not geographically restrict the Service to Canadian territory when investigating threats to Canadian national security, allowing for the collection of *security intelligence* abroad.

Section 16 of the *CSIS Act* allows the Service to collect foreign intelligence related to the conduct of the international affairs of Canada or its defence *but only on Canadian soil*. For that purpose, the Solicitor General has established a secret ministerial direction related to the 'control and management of the [CSIS] intelligence collection response to a request for assistance under section 16 of the *CSIS Act*.'⁴² Under Section 16, the Service cannot legally collect *foreign intelligence* outside Canada.

Section 19 presents the exception: it allows CSIS to provide the government with 'incidentally collected intelligence which is not threat related from any CSIS operation.'⁴³ In foreign intelligence terms, such a provision means that if CSIS agents are collecting security intelligence abroad to investigate a potential threat to Canadian national security, and that in the course of their operations they incidentally collect foreign intelligence, they can disclose it

to the government. But in no time can these agents go abroad with the primary mandate of collecting foreign intelligence.

Mr. Elcock also explained that CSIS overseas operations do not involve its liaison officers posted in foreign countries.⁴⁴ The role of these liaison officers is fourfold: liaise with foreign agencies, carry out immigration security screening, report to CSIS headquarters on any matter related to Canadian security interests, and undertake reliability checks.⁴⁵ Liaison officers abroad share Canadian intelligence with and receive intelligence from foreign intelligence services. ‘There is a concern, however, that Canada’s needs may not always be given the priority they deserve by foreign security intelligence organizations and, furthermore, that the intelligence Canada receives may be filtered through the prism of other nations’ domestic and foreign policies.’⁴⁶

As with CSE, there is with CSIS a real and serious concern related to Canadian independence from its allies, especially from the United States. Although Canada has always been a close ally to the United States, it has been more reluctant to show immediate and complete support to American foreign policies.⁴⁷ Interests and priorities might therefore differ, highlighting the importance of an independent Canadian foreign intelligence capacity.

Privy Council Office

As the Prime Minister’s department, the Privy Council Office (PCO) is tasked with providing non-partisan advice and support to the government, and leadership, coordination and support to the departments and agencies of the government. Two PCO units are tasked with an intelligence function: a policy unit, the Security and Intelligence Secretariat (SIS), and an assessment unit, the Intelligence Assessment Secretariat (IAS).

The SIS ‘provides advice to the Prime Minister on national security and foreign intelligence matters, including major policy developments, public issues, crises and community priorities.’⁴⁸ It is also responsible for the interdepartmental Intelligence Policy

Group, the principal forum for policy and operational coordination within the intelligence community.

The IAS was created in 1993 when DFAIT responsibility and capacity for foreign and economic intelligence was transferred to the PCO. While the IAS ‘is very much smaller than the former intelligence analysis staff of DFAIT (down from about 35 analysts to 13), its responsibilities are considerably broader.’⁴⁹ The IAS ‘produces assessments of conditions and trends in foreign countries [focusing] principally on countries that are authoritarian, unstable, involved in conflict or, for other reasons, are of concern to Canada and the international community.’⁵⁰ It is also responsible for the Intelligence Assessment Committee which brings together representatives from the intelligence community who produce assessment papers.

The shortcoming in the case of the PCO analytical role is principally the lack of adequate funding and the overwhelming amount of information to process. This is where lies the ‘real crisis’, according to Tony Campbell, a Canadian security analyst.⁵¹ The other problem is the absence of a direct channel between the IAS and the Prime Minister, a channel like the one existing in the United States between the Director of Central Intelligence (DCI) and the President.

‘At present, the material produced by a tiny cadre of intelligence officer hidden away in the Privy Council Office, however good, lacks influence.’⁵² And the consensus today seems to be that Canada has ‘an inadequate system for analyzing and assessing the foreign intelligence that is currently available.’⁵³

Department of National Defence

Within the Department of National Defence (DND), the Director General Intelligence Division (J2/DG Int) ‘provides defence intelligence on issues involving the use or potential use of the Canadian Forces abroad.’⁵⁴ On the ground, the task of providing combat intelligence is the responsibility of the 1st Canadian Division Intelligence Company, ‘the only

regular force field deployable intelligence unit in the Canadian Forces. [...] The unit consists of two platoons: the Intelligence Collection and Analysis Centre and the Intelligence Operations platoon.⁵⁵ The former is tasked with monitoring global events 24 hours a day, seven days a week and providing Canada with an all-source indications and warning centre. The latter is the collection arm of the unit gathering mainly human intelligence.

While assessing the future of military intelligence within the Canadian Forces, Dr. David Charters identified the main weakness of the J2/DG Int: ‘There are simply too few qualified intelligence personnel, and they are spread far too thin.’⁵⁶ The needs of the Canadian Forces can simply not be met by a starving intelligence branch. This is not only characteristic to the J2/DG Int; the entire Canadian military is suffering from severe cuts in budget and resources. Therefore, the future of the Canadian Forces will be limited to low-intensity conflicts and peacekeeping operations. And it is in the latter case that the absence of a foreign intelligence agency is the more painful.

The direct consequence of the limited foreign intelligence capacity within the Canadian Forces is that Canada is losing its leadership position in peacekeeping operations to the profit of other states with better foreign intelligence capabilities. In addition, Canada, ‘accustomed to receiving a finished intelligence product from its allies [mainly the Americans], has allowed its analytic capability to atrophy. Hence, it must create Canadian threat assessments based on American data, relying on external sources which may not have Canada’s interests in mind or expertise on Canada with the problem at hand.’⁵⁷

Department of Foreign Affairs and International Trade

The Department of Foreign Affairs and International Trade (DFAIT) is the department responsible for representing Canada abroad. It has a very broad mandate which includes security and intelligence responsibilities such as ‘protecting Canadians and Canadian

government facilities abroad [and] handling terrorism incidents abroad involving Canadians.⁵⁸

Within DFAIT, the Security and Intelligence Bureau (ISD), created in 1985, is ‘responsible for providing timely and critical intelligence on world events, assuring the protection of Canadian personnel and their families, the safeguard of government premises and assets and the promotion and protection of Canadian national interests.’⁵⁹ The expression ‘promotion’ is interesting as it seems to reveal a proactive intelligence role rather than a simply defensive one. How does the intelligence section of a diplomatic and commercial department promote its country’s national interests? We could be tempted to answer by mentioning the gathering of secret intelligence abroad related to hidden intentions of foreign states or secret negotiation strategies of trading partners. But unfortunately, the ISD seems to refrain itself from the collection of covert information and only use open sources to promote Canadian national interests.

Officially, DFAIT only gathers open source intelligence (OSINT). It recently established the Market Research Centre ‘to respond to the needs of Canada's exporters, who have told the government that they require short reports that focus on specific subsectors and product or service niches.’⁶⁰ The commercial and political information they collect is limited to open sources and although it seems to be a helpful and productive initiative, the limitation to OSINT weakens the scope, quality, accuracy and value of the information.

Another way in which DFAIT gathers intelligence is through its Foreign Intelligence Interview Programme.⁶¹ Created in 1953, the programme consists in the debriefing of immigrants, travellers and businesspeople in order to acquire political, economic, social, technological and scientific information from hardly accessible areas. These denied areas were first limited to communist countries but in 1979, the targets were broadened to include non-communist states. Although Kurt Jensen, Deputy Director of DFAIT Foreign Intelligence Division, recently described the response of the interviewed subjects as very good, he insisted on the fact that the information collected was open source intelligence.⁶² When I asked him

for details about the number of interviewers or their methods in selecting the interviewees, he politely replied that these details were classified.

DFAIT foreign intelligence capabilities are probably the most difficult to pinpoint but officially, all its collection efforts are said to be using open sources.

Shortcomings at the Political Level

Canada's current foreign intelligence capabilities are unfocussed, un-coordinated, and rely too heavily on allies' contributions. But in addition, deficiencies at the political level exacerbate the problems and do not help to fill in the existing gaps. Stuart Farson summarises the issue by stating that there is simply no intelligence culture in Canada.⁶³ In addition, to use the words of John Thompson of the Mackenzie Institute, 'many Canadians believed that [they] were remote from the great issues of the 20th Century. This smug feeling has persisted and is very much a part of the Liberal Party's psyche.'⁶⁴ In other words, not only are most Canadian politicians unaware of intelligence matters but they also show no interest or curiosity in trying to know more. As noted by Farson in a 2001 interview with the Ottawa Citizen, 'Mr. Chrétien disengaged himself eight years ago from any personal interest in national security issues.'⁶⁵ The domino effect of disengagement and indifference from the higher echelons of government to the lower ones has created a dangerous lethargy.

But the lack of interest from the public in general also fails to stimulate policy-makers in Ottawa. Tony Campbell, a top Canadian security analyst, thinks that 'Canadians have a 'severe lack of knowledge and interest in security issues.' [He adds that] 'this is reflected in Parliament and in policy.'⁶⁶ He recently explained that the reason why there has been so little change since the terrorist attacks of 11 September 2001 is that 'Canada has a low IQ' and has to learn.⁶⁷

Finally, Canada is no exception to the 'classic failure of intelligence – the unwillingness of the client for your processed information to believe it – [...] particularly

when Federal Cabinet ministers are given material that contradicts their usual views.⁶⁸ This should not be the case and advisors from the intelligence community should have the integrity to ‘speak truth to power’.⁶⁹

One can only hope that public debates, scholarly publications and committee’s reports will contribute to raise, among Canadian politicians, the level of awareness on intelligence issues – and on the need for a foreign intelligence service.

Canada's Needs and the Threats to Its National Interests

The McDonald Commission suggested that the ‘first step in considering those intelligence requirements which are related to Canada’s distinctive national interests is to identify those national needs that cannot be met through liaison arrangements with allies.’⁷⁰ In this chapter, we will examine three areas in which Canada requires foreign intelligence that would have to be collected by Canadian agents abroad. These areas relate to economic and trade intelligence, military and peacekeeping operations, and terrorism.

Economic and Trade Intelligence

In today’s world where economic interdependence and international competition prevail, Canada needs to adequately forecast the economic intentions of foreign states and understand economic trends. Economic and trade intelligence is essential for governments and private businesses to become or remain competitive in the current global economy.⁷¹

Canada needs economic intelligence to feed its decision-makers with ‘valuable economic intelligence unavailable through other means and value-added analysis on issues deemed important. This would include intelligence on macroeconomic policies and significant upcoming decisions of major economic actors, for example, in the area of monetary or fiscal policy.’⁷² Most of Canada’s allies currently benefit from foreign secret intelligence on

economic issues, trade negotiations, and market trends. Canada and Canadian businesses are disadvantaged from the start when dealing with these foreign states or businesses.⁷³

Samuel Porteous, a former CSIS Strategic Analyst, identified in his 1993 article three other important economic and trade roles for intelligence services: the monitoring of trade agreements and collection of information on unfair trade and other sharp practices; ‘special activities’ designed to influence events, behaviour or policy formulation in foreign lands; and the pursuit of commercial information and technologies for ultimate transmittal to favoured commercial actors or consortia.⁷⁴

Canada needs that information to remain competitive and provide its private businesses with vital economic information.⁷⁵ It is obvious that Canada cannot rely on collaboration from allies to obtain such intelligence since it is now clear that political and military allies are usually fierce economic adversaries. Furthermore, competitive intelligence, based on open sources, is not enough and clearly does not provide the details that the Canadian government and businesses need.⁷⁶

The Communications Security Establishment does provide, since the end of the Cold War, economic intelligence to the Canadian government. Some even say that ‘the CSE has spied on Japan and Germany for business reasons, while monitoring trade negotiations.’⁷⁷ Former CSE employee Mike Frost even revealed that in 1981, ‘CSE overheard a conversation by the U.S. ambassador to Canada talking about a wheat deal with China. CSE collected enough information to allow Canadian negotiators to make a better offer. Canada got the deal.’⁷⁸ This is exactly the kind of economic intelligence Canada needs and this is also the kind of intelligence other nations gather – sometimes to the detriment of Canada.

The Canadian government has an obligation to support its domestic public and private businesses. For example, in 1998, Canada committed itself to support its space industry by developing better mechanisms for gathering and disseminating information concerning procurement opportunities, strategic alliance opportunities, and the activities of the Canadian

space industry's competitors.⁷⁹ Without human sources gathering intelligence abroad, Canada can only fulfil its commitment partially, using its SIGINT capabilities.

However, signals intelligence is not and cannot be sufficient. Canada needs economic HUMINT to fill in the gaps that communications intercepts cannot fill.⁸⁰ To help Canada stay competitive, Canadian human intelligence needs to turn its attention to potential trade wars and adverse economic trends, just like the American CIA did.⁸¹ And that means to be able to go abroad and collect secret intelligence on business and trade partners. NATO allies are putting incredible efforts into covert economic intelligence gathering and by choosing not to imitate them Canada will stay in the dark.⁸²

Military and Peacekeeping Operations

The Canadian military is better known for its supporting role than its leading one, and more for its peacekeeping contribution than its offensive capabilities. 'International peacekeeping has been a primary tool of Canadian foreign policy since 1956 and Canada has maintained a modicum of international influence through its peacekeeping contributions.'⁸³ But the Canadian Forces (CF) have suffered dramatic cuts in the last decade and the capacity of the J2 Intelligence Directorate has been significantly reduced. The cuts were so drastic that Canada ranks 'a lamentable 31st among nations that contribute to United Nations peacekeeping operations, trailing the United States and many other, much smaller, countries.'⁸⁴ Quoted in a September 2002 article, Jack Granatstein stated that '[t]he prime duty of a government is the security of the nation, and this [Chrétien] government is a derelict in its duty in defending the security of the nation.'⁸⁵

As noted by David Charters, '[t]he current Regular Force strength of the CF Intelligence Branch stands at approximately 160 officers and 260 NCOs [non-commissioned officers]. This represents less than one percent of the total Regular Force, and could not by itself meet all of the CF intelligence commitments and requirements.'⁸⁶ Even if we accept that

peacekeeping will remain the only significant military role of the CF, the situation is still unacceptable and puts Canadian soldiers at risk. When an organisation such as the Canadian Forces is asked to do more with fewer resources, the strategy to adopt is to maximise these resources by developing intelligence.

Intelligence support to peacekeeping operations is complex and involves different levels of information requirements. In order to create a secure environment for the operation, the troops need strategic intelligence to be aware of the global context. They need operational intelligence on the intentions and capabilities of the belligerents as well as on the terrain, the climate, the infrastructures, etc. Finally, they need tactical intelligence on the conflict or peace situation within the local context.⁸⁷

The Canadian Forces need to know the exact situation in areas where they are sending troops and although good intelligence can be acquired by technical means, they can only complement and not substitute the need for ‘ears and eyes’. Ignorance or poor intelligence can lead to disastrous results, even in operations of peacekeeping. For example, when the Canadian Forces deployed to Somalia to help in restoring peace, the troops clearly lacked advance and accurate knowledge of the potential threats they could face. But ‘some of the problems facing the troops in theatre could have been alleviated by a requirement that intelligence personnel deploy more quickly, in advance of the troops, so that they could assemble intelligence and disseminate it before the deployment commenced.’⁸⁸

Canada needs foreign intelligence to insure a maximum of security to its troops. It cannot rely on the United Nations and it can hardly rely on intelligence from other states since that intelligence will rarely reach the troops in a timely and responsive manner.⁸⁹ And since the Canadian Forces are struggling with the very limited budget they have – even after the recent \$1.6 billion invested in emergency preparedness and military deployment⁹⁰ – it seems that the only way to obtain intelligence meeting the Canadian need-to-know will be for Ottawa to establish a CFIS to fill in the gap.

Terrorism

On 11 September 2001, the violent terrorist attacks on the United States attracted the world's attention to the growing terrorist threat and on the already-ongoing war on terrorism. Canada has never been a prime target of terrorist attacks and is unlikely to become one despite comments like those of former CSIS Planning Chief David Harris who guaranteed that 'it was only a matter of time before terrorists would strike in Canada.'⁹¹ However, it is a fact that 'Canada is an attractive venue for terrorists. [...] Many of the world's terrorist groups have a presence in Canada, where they engage in a variety of activities in support of terrorism'.⁹²

In addition, Canada cannot ignore the threat from chemical, biological, radiological and nuclear (CBRN) terrorism. While Canada is more likely to be the victim of a hoax or a threat rather than an actual CBRN attack, 'it is becoming increasingly difficult for the authorities to distinguish between a mere hoax and the real thing.'⁹³ There too lies the need for accurate, detailed and timely foreign intelligence.

CSIS has developed a counter-terrorism programme and for that purpose, collects information in Canada and abroad in order to properly advise government about activities that may constitute a threat. However, due to statutory limitations, CSIS cannot gather intelligence on a foreign target unless that target poses a threat to Canadian national security. Therefore, if a terrorist organisation located abroad does not directly threaten Canadian security, CSIS cannot intervene. As Starnes rightly points out, '[c]ountries seeking to deal effectively with international terrorism must be able to receive timely and accurate intelligence *before* some incident occurs, and be able to deal swiftly and decisively with terrorist incidents when they do occur. Canada is no exception to these dicta.'⁹⁴

The problem is that when CSIS acquires the legal right to intervene, it is often too late: the terrorists are already in Canada, the attack has already been prepared, or the terrorist group has already dispersed. Timing is the key factor. And not only does Canada need adequate foreign intelligence on these terrorist to protect itself but it also has commitments to

protecting its allies. Without proper information on the whereabouts, intentions, activities, skills, size, resources of a terrorist group, Canada cannot make the contribution that its allies are expecting it to make.

Part of the foreign intelligence Canada needs can be obtained using technical means but the type of war fought by terrorists reaffirms the superiority of human intelligence over technical intelligence. Only HUMINT means can help penetrate these criminal organisations.⁹⁵ In addition, if it decided to confront the roots of religious terrorism, Canada would have use agents who could undertake psychological operations aimed at convincing potential martyrdoms of their misinterpretation of religion⁹⁶ or at turning terrorists into ‘double agents’.

The job of Canadian intelligence is to keep terrorists out of the country and remove those who have entered to enter. But we should remember that the reliance on expensive technical intelligence means of gathering foreign intelligence on terrorists did not prevent the attacks of 11 September 2001 because the terrorists had understood the limits of such technical means. ‘Despite the capability of today’s most advanced machines, human intelligence – spies on the ground, as well as analysts who are able to make sense of raw data – remains the indispensable link in the counter-terrorism intelligence chain.’⁹⁷ That conclusion was reached by the United States⁹⁸ and the United Kingdom⁹⁹ following the terrorist attacks of 11 September 2001, and should be seriously taken into consideration by the Canadian government when addressing the issue of creating a CFIS.

Arguments For and Against a Foreign Intelligence Service

The existing foreign intelligence apparatus presents serious flaws and to palliate these shortcomings, a few solutions have been proposed among them, the creation of a Canadian foreign intelligence service. It is the option Canada should choose because tomorrow is as unknown as it was in before the fall of communism or on 10 September 2001 before the

attacks on the United States. This chapter presents some arguments in favour and against this solution.

The main argument in favour of the creation of a CFIS is that it would eliminate or at least greatly diminish **Canada's dependence** on externally-supplied foreign intelligence. The argument is strong and crucial. It is a question of political and moral independence: 'Canada can't be fully sovereign without the ability to send spies abroad [...].'¹⁰⁰ Canada should not content itself with imported intelligence from allied nations.¹⁰¹ Canada has its own international agenda and its own specific interests abroad; accepting intelligence from Canada's allies, no matter how friendly, means to deny these Canadian interests. Because the priorities of these allies are changing and becoming more divergent, 'Canada needs the type of information that only a *Canadian* foreign intelligence capability can provide'.¹⁰²

Canada should stand up for its own interests, needs and opinions, realise that its allies often have little to share¹⁰³ or have divergent interests,¹⁰⁴ and take a step in achieving greater independence by collecting its own information on international matters. That dependence is a Damocles' sword hanging above Ottawa's head. It would seem prudent for Ottawa to make sure that the intelligence it gets about events, activities and developments abroad is collected for its own national interest.¹⁰⁵ The solution, therefore, seem to be for Canada to collect the information itself through a CFIS.¹⁰⁶

The other aspect of that argument is that not only Canada's foreign intelligence comes from allies with divergent priorities, but that intelligence can be – and probably often is – slanted, biased or even censored.¹⁰⁷ This is even more obvious in the world of international trade and business.¹⁰⁸

In other words, by relying on other nations to acquire foreign intelligence, Canada is getting information that might not be directly related to its needs, that might mislead policy makers, and that makes Canada vulnerable to false, altered, partial or biased information.¹⁰⁹ And as SIRC concluded, it seems 'that information supplied by friendly foreign intelligence services might too easily be accepted by CSIS at face value; it may not be getting the same

critical scrutiny as information from Canadian sources. [...] Canada has its own national interests, distinct from the interests of any other nation.’¹¹⁰

Another very strong and pretty common argument is the one related to **economic and trade intelligence**. In the realm of economics, Canada fiercely competes with its military and diplomatic allies to gain access to new markets and it intensely negotiates trade agreements with them. ‘To the extent that covert sources of intelligence and influence are an asset in gaining access to markets and technologies and in international bargaining, Canada will be at a disadvantage with its major trading partners.’¹¹¹

With its export-led growth strategy, Canada needs to know what competing countries are up to, what is the negotiating strategy of other parties to trade agreements, if a particular treaty is being respected, if unfair trade and other so-called sharp practices are being used by other states, etc.¹¹² It is well known that other countries conduct intelligence operations against Canada and one author suggested that Canada should be equipped not just to counter those activities, but to pursue them for its own ends.¹¹³ At the present time, Canada is at a disadvantage and to create a CFIS tasked with collecting economic and trade intelligence abroad would counterbalance that disadvantage to make international business and negotiations fairer for Canadian government and businesses.

The argument often heard in the months following 11 September 2001 was that the collection of human intelligence abroad can play a key role in **fighting terrorism**. The rationale behind the argument is that ‘the sooner and farther from Canada’s borders threats can be identified, the better they can be addressed. Effective foreign intelligence can minimize the risk of terrorism, both to Canadians, and its neighbours. [...] Canada’s forte in the fight against terrorism should be intelligence, but at the moment Canada’s intelligence capacity is inadequately funded.’¹¹⁴ Not only is it inadequately funded but CSIS currently lacks the manpower and expertise to address the issue of international terrorism. And as the Service admitted it itself, ‘[t]he significant difference between international and domestic terrorism is that the former lies beyond the control of Canadians to remedy.’¹¹⁵

One of the objectives of Canada's anti-terrorism plan is 'to prevent terrorists from entering Canada'¹¹⁶ but one could rightly ask how Canada plans to fulfil that commitment without the capability of gathering intelligence on the whereabouts, development, activities and intentions of terrorist groups located abroad. CSIS can only intervene when the terrorists have become a clear and real threat to Canadian national security or when they have arrived on Canadian soil. But to really protect itself and its allies from terrorism, Canada needs to identify and monitor these terrorists much earlier.¹¹⁷

Despite official opinion to the contrary,¹¹⁸ Canada, like the United States, needs the human intelligence capacity of a CFIS to face the threat from terrorism.¹¹⁹

The establishment of a CFIS would not mean the end of the existing collaboration between Canada and its allies. To the contrary, with a foreign intelligence capability, Canada would **increase its contribution**. Canada should no longer be the 'taker' and become more of a 'maker' in the realm of intelligence-sharing.¹²⁰ Since the geo-strategic importance of Canada greatly decreased after the collapse of the Soviet Union, the issue has arose as to whether Canada is still an ally worth of sharing intelligence with.¹²¹ To increase that ally-worthiness, Canada has to come up with an interesting product that will meet the needs of its allies.¹²² A CFIS could collect intelligence that would justify Canada's seat at the table.

In more general terms, Canada also needs to know **what is going on abroad**. One of the main reasons is that '[m]ost of Canada's security preoccupations originate abroad.'¹²³ And as international business consultant John Willies put it: 'Unless something happens right under the bay windows of a Canadian embassy, the government's only window on the world is CNN. That shouldn't be the case [...]. Without a foreign intelligence service providing advance warning of problems headed our way, we get the chore of dealing with them once they've landed.'¹²⁴

Canada needs a foreign intelligence service to remain informed of the non-threat related activities, intentions and capabilities of foreign states, groups and individuals. It is a question of knowing in advance what might impact Canada by using intelligence as an early

warning system.¹²⁵ Canada already gathers some of that intelligence through communications intercepts which present only one part of the picture. Human sources can provide the missing part by verifying existing reports, learning about intentions of individuals, identifying places and objects, etc.¹²⁶ It would therefore be essential for Canada to have the capability of being ‘properly informed, with the best and most independent information it can get [...]’¹²⁷

Foreign secret HUMINT collected abroad is a significant source of information and Canada has decided to give the responsibility of collecting it to foreign entities. One could therefore ask if Canada has ever realised the **real importance** of a discreet, covert capability tasked with collecting such intelligence.¹²⁸ Some fourteen years ago, Canadian Professor Peter Russell deplored the fact that ‘[m]aybe we have to wait for a crisis and we will be caught with our pants down sometime and we will say ‘Jesus, aren’t we a stupid bunch of people. We didn’t have any information on that and no way of getting it.’ That’s probably what it will take.’¹²⁹ With the ‘crisis’ of 11 September 2001 fresh in our memories, maybe it is time for Canadians to realise that they have been somewhat ‘stupid’ in depriving themselves from the tools to gather the relevant information about what was going on abroad. We can hope that Ottawa will not wait for a similar ‘crisis’ to strike Canada directly before taking the wise decision of establishing a CFIS. ‘With increasing globalization, dramatic changes in the tools and tactics available to terrorists, the changing political climates throughout the world and Canada’s active international role and interests, [...] there will be a growing need and demand for foreign intelligence.’¹³⁰ Ignoring the importance of foreign secret intelligence is, in my opinion, dangerous and irresponsible.

Another argument in favour of the establishment of a CFIS is that the foreign intelligence mandate of **CSIS cannot satisfy Canada’s requirements** ‘because its priority must be on threats to the security of Canada, not non-threat-related foreign intelligence.’¹³¹ For example, as Russell presented it, ‘[y]ou could have an official in Washington saying, ‘I can tell you how my government can screw you at the WTO,’ and under our act, CSIS is not allowed to report that [...]. It’s really nonsense.’¹³²

CSIS has Security Liaison Officers posted abroad but they ‘have no mandate to conduct investigations outside of Canada and must refrain from any activity that gives the appearance of offensive intelligence gathering.’¹³³ This prohibition is probably justified given the lack of training and experience of these officers but CSIS is seriously limited in its effectiveness by being deprived of foreign secret intelligence to complement its security intelligence gathering.¹³⁴

However, some people argue that CSIS is currently fulfilling Canada’s foreign intelligence needs.¹³⁵ CSIS Director even went as far as saying that Canada ‘doesn’t need a new foreign spy agency because CSIS has the mandate and personnel to conduct operations abroad, much like the U.S. Central Intelligence Agency.’¹³⁶ Such comparison is incorrect and might lead Canadians to think that they have intelligence officers collecting foreign intelligence abroad, which is not the case. CSIS agents are not operating abroad to collect foreign secret intelligence – and they should never do so. Such intelligence should be collected by a new, specialised agency; enabling CSIS to gather foreign intelligence abroad or to collect more security intelligence overseas is not the solution.¹³⁷

More generally, Canada’s foreign intelligence **collection resources are inadequate** to meet national requirements. In 1991, the Solicitor General of Canada stated that ‘if the international environment evolves to the point where existing arrangements can no longer fully meet national requirements, the Government will have to assess carefully what alternative might be needed.’¹³⁸ That ‘evolution’ took place – and the attacks of 11 September 2001 are a blatant evidence of it – and the Solicitor General cannot argue today, like he did two weeks after the attacks, that Canada’s intelligence needs are being met through the existing resources and arrangements.¹³⁹

In the debate over the creation of a CFIS, it is often argued that intelligence-gathering is now handmaiden to science and that the use of spies is obsolete.¹⁴⁰ This is not true and ‘the September 11 attacks demonstrated the **limits of technical means** of intelligence gathering and the importance of human sources.’¹⁴¹ Relying too heavily on SIGINT and ignoring the

contribution of HUMINT would be a serious mistake, especially in the realm of foreign intelligence.¹⁴² It has been argued that HUMINT is not a complete solution to foreign intelligence shortcomings¹⁴³ but I believe that it is an essential source that should not be supplanted by SIGINT but rather complemented. A CFIS is not the *only* solution, but it is certainly part of it.¹⁴⁴

A less common but, in my opinion, fundamentally important argument in favour of the creation of a CFIS is that it would lead the way into a more **proactive role** for Canada in the so-called war against terrorism, in the ferocious global economy, and in peacekeeping operations. Today, Canada is definitely more a passive player than an active one, in many areas of international relations. The creation of a CFIS would not change that position completely and would not make Canada a leader in all these areas but at least, Canada could take decisions based on better information, and could more easily refuse to take the backbencher role – like in the offensive against Afghanistan in 2001 and the following actions against international terrorism.¹⁴⁵ Canada needs to take risks – including political risks¹⁴⁶ – and be more blunt if it wants to make a difference, protect and promote its interests, and deserve a seat at the table with its allies and partners.

It is also argued that not having a CFIS is rather **naïve and hypocritical** for Canada. It is naïve because Ottawa decided, following the end of the Second World War, to deprive its country from a valuable source of intelligence without really addressing the question in depth. Indeed, throughout the Cold War, the Soviets were convinced that Canada had such a service and was really good about hiding it. But today, the Russians think that Canadians are pretty naïve because they do not.¹⁴⁷ And it is hypocritical because Canadians ‘refuse to ‘get their hands dirty’ in international espionage, while happily taking from allies the fruits of such impure labour.’¹⁴⁸ In other words, Canada decided to bypass the moral and legal issue of breaking laws of other nations by having its allies do the job for it.¹⁴⁹

It is a fact that ‘[peacetime] espionage is considered inconsistent with international law, since it constitutes and affront to the territorial integrity of states, to their sovereignty and

to the principle of peaceful cooperation of states.’¹⁵⁰ But is also a fact that, for Canada, asking the United States to spy abroad on its behalf is clearly hypocritical and probably as illegal as if done by Canada itself.

In addition, Canadians show a great deal of naïveté by thinking that the Americans will pass to their neighbours all the relevant and interesting intelligence collected abroad. Some authors suggest that this is the price to pay for Canada to retain its shining reputation of having no hostile intentions towards other states.¹⁵¹ That reputation, in my opinion, is based on false assumptions. Canada’s close alliance with the United States and other Western powers makes Canada far from being neutral and chaste in its intentions towards other states. To blindly believe in Canadian impartiality is another dangerous sign of naïveté. The establishment of a CFIS, I believe, would put an end to such hypocrisy and naïveté.

On the other hand, probably the most common argument against the establishment of a CFIS is the **absence of an urgent need** for such a new capability. For example, Starnes states that he knows of ‘no glaring example in the past 25 years where our interests have suffered simply because we ourselves have been unable to covertly collect intelligence in other countries.’¹⁵² Alistair Hensler responded very simply by saying that it is impossible for Canadians to know if they have suffered or not.¹⁵³

Other opponents say that Canada has not reach the threshold where a compelling need forces the establishment of a secret service.¹⁵⁴ But should Canada really wait for the need to be ‘compelling’ and urgent before taking action? Ottawa should pay attention to the lessons learned by other nations, like the terrorist attacks of 11 September 2001. It is not true that increased intelligence efforts should be a distant priority.¹⁵⁵ Canada needs to be proactive and should act *today* so tomorrow’s intelligence gaps can be filled in on time.¹⁵⁶

The other very common argument against the establishment of a CFIS is the **cost**: ‘[f]oreign espionage services – even those with a very limited sphere of operations – cost millions of dollars and entail major political risks.’¹⁵⁷ This is a weak argument. The cost of such a service, which will be discussed later, has to be weighed up against the benefits that it

could provide. Not only are we talking about saving lives, protecting infrastructures and preventing criminals and terrorists from entering Canada, but we are also talking about economic and trade benefits. There is no doubt, in my mind, that the costs and risks associated with a CFIS are minimal compared to the potential benefits and advantages. When CSIS Director Ward Elcock argues repetitively that ‘foreign operations [...] are, by definition, expensive,’¹⁵⁸ international relations professor Michael Roi is probably right to conclude that Mr. Elcock is simply trying to protect CSIS in the event of the creation of a new agency within the Canadian intelligence community.¹⁵⁹

Another argument against a CFIS is related to the danger that a CFIS ‘would quickly develop its own agenda or become a **‘branch plant’** of its senior allied partners.’¹⁶⁰ The fear of a Canadian service becoming a franchise of the American CIA is justified – but when looking at today’s situation. Ottawa has lost a great deal of its control over CSIS and CSE to the Americans a long time ago. And in my opinion, if Canada was to create a CFIS, it would be because officials in Ottawa would have acquired enough self-confidence, determination and ambition to make that new agency a truly Canadian one, with Canadians at its head and Canadians as its priority. And if Ottawa has the humility and the wisdom to look at his own and other nations’ historical failures and lessons, there is no reason to believe that Canada, by establishing a CFIS, would be creating the monster that John Starnes is referring to.¹⁶¹ But even if there is a risk of creating an agency with sharp teeth, it does not mean that it is not worth taking the risk.

Opponents also argue that Canada has not **the resources, the skills nor the political will** required to establish a CFIS.¹⁶² These arguments do not take into consideration that if decision makers were aware of the value of foreign secret intelligence collected abroad, they would put enough resources to obtain that information, and these resources would be used to trained intelligence officers in the art of covert intelligence-gathering. For example, the existing training program for foreign agency personnel established by CSIS could be ‘revisited’ to include instruction in secret intelligence gathering abroad.¹⁶³

Establishing the Canadian Foreign Intelligence Service

The need for a CFIS is obvious and in my view, such a new agency should be created before it is too late, before Canada suffers from lack of foreknowledge, before Canadians are injured or killed because of poor or slanted foreign intelligence. A CFIS should be established now so it can be up and running before the next crisis, the next attack or the next trade agreement. The more Canada waits, the greater are the chances for it to be caught by surprise and the greater its handicap will be in front of its diplomatic, military and economic partners.

This section will present what a CFIS could look like; it is a hypothetical discussion but based on existing literature and experts' comments. It is not a comprehensive organisational study but rather a sketch of how a CFIS could be established.

Creation and Positioning Within the Government

A CFIS should be created as soon as possible so it can produce useful results at the earliest date possible.¹⁶⁴ The mode of creation is a contentious issue. While some argue that a foreign intelligence service should be established by law or at least governed by a 'charter approved by Parliament',¹⁶⁵ I am of the opinion that secrecy should be the priority in the creation of such an agency. A classified directive could be issued to DFAIT 'setting out [the] expectations, priorities and providing for a stringent regimen of accountability.'¹⁶⁶ I believe that although the creation of a CFIS through a public and statutory process would perhaps reassure civil rights activists, it would greatly undermine the effectiveness of the agency. Its existence would probably become known at one point or the other but the less and the later other nations know about it, the more effective a CFIS would be.

A second controversial issue related to the creation of a foreign secret intelligence-gathering capability is related to whether such capability should be given to the existing CSIS. The McDonald Commission addressed that question in clear terms: '[i]n our view, it would be

extremely important to keep such an agency separate from the security intelligence agency. We have already mentioned the danger if contagion with respect to an espionage agency's practice of violating the laws of other countries.¹⁶⁷ While CSIS is more narrowly focused on domestic counter-intelligence and counter-terrorism, a CFIS would seek to learn of the capabilities and intentions of foreign states, and would therefore conduct its intelligence gathering activities on the territory of foreign states.¹⁶⁸ Hensler repeatedly stated that the two functions should be kept separated in order to avoid contamination of the domestic security intelligence function by the foreign secret intelligence function, the latter involving the violation of foreign laws.¹⁶⁹

The other issue pertains to the location of a CFIS within the government machinery. In the United Kingdom, the *Intelligence Services Act 1994* 'gave the Foreign Secretary responsibility for the work of the SIS [...].'¹⁷⁰ In Australia, although the secret service was first part of the Department of Defence to facilitate co-ordination with the Joint Intelligence Bureau and Defence Signals Branch,¹⁷¹ the ASIS today 'is responsible to the Government through the Minister for Foreign Affairs.'¹⁷² In Canada, most of CFIS proponents argue that 'control of the agency should be vested in the Department of [Foreign] Affairs.'¹⁷³ And although Alistair Hensler first agreed to that suggestion, he recently argued for a CFIS to be positioned with CSIS under the Department of the Solicitor General.¹⁷⁴ However, the domestic role of the Solicitor General of Canada would not make it the most appropriate Minister to have responsibility over a CFIS.

Size and Cost

A major concern among opponents to the idea of creating a CFIS is the cost. Most of them have numbers in their head inspired by budget of agencies like the American CIA or the British SIS. But one has to consider the size a CFIS would have and other factors that can influence the overall yearly budget of such a service.

The 1988 CIA budget was estimated by the Federation of American Scientists at US\$3.1 billion (CA\$4,820 million) for 16,000 staff.¹⁷⁵ The SIS budget was estimated in 2000 by author Stephen Dorril at approximately GB£280 million (CA\$616 million)¹⁷⁶ for a workforce estimated in 1994 at 2,303 staff.¹⁷⁷ As of the Australian ASIS, it was allocated a budget of AU£136,000 in its first year of life (1952-1953)¹⁷⁸ for a staff of about 200, and AU\$57.381 million (CA\$50 million) for 2002-2003.¹⁷⁹

John Starnes estimated that the minimum to be considered for an even small and limited CFIS would be CA\$60 million annually at 1982 prices.¹⁸⁰ More recently, former CSIS Director Finn mentioned CA\$20 or CA\$50 million or more annually.¹⁸¹ Finally, a reliable source told me recently that running one CSIS Security Liaison Officer abroad costs approximately CAD\$1 million per year, giving me an idea of how much it would cost to run similar officers operating clandestinely and gathering covert intelligence.

Putting a number on a CFIS budget is a purely speculative exercise. What is more important is to determine the size such a service would have. There again, the issue is not about coming up with an exact number but about evaluating the relative magnitude of a CFIS. Canada would most likely establish a service that would be of small size, focused on certain geographic areas or specific threats, and would have modest objectives. In that sense, the Australian ASIS could be a better model for Canada than the American CIA or the British SIS which have global interests.¹⁸² But as mentioned by DND Deputy Minister Margaret Bloodworth, small does not mean bad, especially since a small organisation is often characterised by better and more efficient co-ordination and collaboration.¹⁸³

In summary, I believe that a modest, focused CFIS benefiting from the already existing DFAIT infrastructure could, at its inception, function on a yearly budget of approximately CA\$15 million and, at full maturity, on a yearly budget of CA\$35 million. These numbers are high – especially compared to the CA\$2.5 million estimated in 1995 by Alistair Hensler¹⁸⁴ – but in the light of the CA\$7,700 million on five years provided in 2001 ‘to enhance security of Canadians’¹⁸⁵, I think that it could be a feasible venture. Moreover, as

this study tried to demonstrate, the benefits of a CFIS would without a doubt outweigh the costs.

Role and Operations

The last question about the creation of a hypothetical foreign intelligence service relates to the role it would play and the operations it would be tasked with. First, we can determine something that a CFIS would *not* be tasked with, that is covert actions. There is a wide consensus on that question among the literature and I agree with that conclusion. Future events and circumstances could one day lead to a need for Canadian covert actions abroad but I sincerely hope that such prohibition would never have to be lifted. A CFIS mandate or charter would have to clearly forbid – to paraphrase the ASIS mandate – undertaking paramilitary activities or activities involving violence against the person or the use of weapons.¹⁸⁶

The basic mandate of a CFIS would be to obtain intelligence in specific areas of the world where Canadian interests in the fields of security, defence, foreign and economic policies are paramount and where there is a lack of knowledge about the capabilities, intentions or activities of people or organisations outside Canada, to protect and promote these interests and fill in these gaps.¹⁸⁷

More specifically, tasks of a CFIS would include identifying threats to Canadian businesses abroad from other intelligence agencies, supporting Canadian negotiators of trade and other agreements, verifying the intentions of regimes seeking to enter into trade and economic agreements with Canada, gathering intelligence related to terrorist organisations and the states that harbour them, and supporting Canadian troops carrying out United Nations peacekeeping duties.¹⁸⁸

CFIS targets would include countries that allow their vessels and nationals to fish beyond internationally agreed limits, countries contributing to the proliferation of WMD,

foreign states and their citizens that, through undemocratic and clandestine means, threaten the sovereignty and the political and economic integrity of Canada, countries and their nationals that aid and actively encourage international terrorism or pose a threat to Canada's interests abroad, and countries attempting to achieve trading and commercial advantages over Canadians by covert means, in defiance of international and bilateral agreements.¹⁸⁹

Finally, a tight monitoring process would have to be put in place in order to prevent the covert activities of a CFIS to 'cross the line into unacceptable activity.'¹⁹⁰ Such process would probably be difficult to implement because of the great level of secrecy in which a CFIS would have to be established and operate, but a balance would have to be found between effectiveness and oversight, secrecy and accountability.

Conclusion

Creating a Canadian foreign intelligence service has always been a contentious issue, mostly because of existing negative preconceptions about agencies tasked with the collection of intelligence in foreign countries. But when addressing the question, we have to put in a scale the costs – in a broad sense – and the benefits. In my opinion, and in light of the results of my research presented here, the benefits outweigh the costs and a CFIS should be established as soon as possible to meet the growing and demanding needs for foreign intelligence.

That costs-benefits analysis has not been done properly at the beginning of the Cold War when people like Norman Robertson and George Glazebrook decided not to establish a Canadian secret service. Over the years, Canada has developed an intelligence community within which several agencies have foreign intelligence functions. CSE collects foreign signals intelligence, CSIS gathers foreign intelligence on Canadian soil, PCO co-ordinates and assesses the foreign intelligence activities and products, DND collects military intelligence, and DFAIT puts together foreign intelligence coming from open sources. The missing agency in this picture is a service with the mandate of collecting foreign intelligence abroad by covert

means. Many countries have understood the importance of such an agency and have established a secret service. And still today, Canada is the only G-8 country without a capability to gather foreign intelligence abroad; that handicap is beginning to weigh heavily on Canadian shoulders.

That weigh is made of missed opportunities and unfulfilled needs. Canadian government and businesses need to be as well-informed as their economic and trade partners and the absence of a CFIS make them miss opportunities that they could have grabbed with better information on hidden intentions and secret strategies. Canada also has various, specifically Canadian needs to fulfil, in addition to those of its close allies. Military and peacekeeping operations, terrorism and the proliferation of weapons of masse destruction are increasing – and not decreasing – the need for secret intelligence on the intentions, capabilities and activities of foreign states, organisations and individuals.

The debate did not generate a literature specifically dedicated to this topic but brief discussions can be found, dispersed within the relatively limited Canadian intelligence literature. Opponents and proponents shared and exchanged their divergent arguments on the issue but one thing remained constant: the absence of clear and public discussion of the subject by government officials. Nevertheless, they upheld their decision not to establish a CFIS.

Such inflexibility is unfortunate since I believe that the project is within Ottawa's reach. By reorganising some of the current assets and by defining modest yet precise objectives, Canada could create, within DFAIT, an agency positioned within DFAIT with a reasonable financial investment. Drawing on the American, British and especially Australian examples, and taking good note of some of their failures, Ottawa could create a uniquely Canadian organisation to gain more independence, fill in the existing gaps, fight terrorism at an earlier stage, and finally bring enough contribution to its allies to make Canada a fully worthy intelligence ally.

To argue the case for a CFIS, I have researched most of the existing literature discussing that topic in one way or another. However, distance impaired my ability to gain access to some material and to contact certain individuals whose contribution could have broadened my arguments, modified some of my perceptions, or added some valuable pieces of information to my research. In addition, it has been very difficult to have the input from intelligence practitioners and when the opportunity arose, the contribution ended up being minimal and of little importance.

Overall, I believe that this research can make a valuable contribution in two ways. First, it consolidates in a relatively short document the main points of an already old debate, providing a practical starting point for further debate as well as a useful reference guide on the relevant literature. Second, it brings a perspective on the debate at a time when international security is high on the agenda and when intelligence agencies of the world have suddenly been given more responsibilities in the wake of the terrorist attacks of 11 September 2001. While most of the literature addressing the issue of a CFIS dates from before 2001 and even, in some instances, before the collapse of the Soviet Union, a fresh look on Canadian intelligence requirements is needed. I wish my work to make a contribution to that new, more proactive understanding of the role of intelligence agencies.

As a final word on what I think that Canadian general attitude towards intelligence – and especially foreign secret intelligence – should be, I would like to quote Reg Whitaker whose comment summarises perfectly my own vision: ‘To be efficient and effective, the Canadian security and intelligence system needs to be a great deal more present-minded, more autonomous and oriented to Canadian national interests, less tied down by ancient alliance obligations, and more capable of flexible response to changing challenges.’¹⁹¹

The creation of a Canadian foreign intelligence service would be a step in that direction.

Endnotes

Introduction

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² A detailed historical overview of the development of Canadian intelligence is presented in Appendix A to supplements this more specific section.

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⁵ Special Committee on the Review of the Canadian Security Intelligence Service Act and the Security Offences Act (1990) In Flux but Not in Crisis, Ottawa: The Committee, p. 37.

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⁶ Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police (1981) Freedom and Security under the Law: Second Report, Vol. 1, Ottawa: The Commission, pp. 641-646.

⁷ Starnes, John (1982) 'When Spying Spells Chaos', Maclean's, 16 August, p. 9.

⁸ See, for example, Starnes' article published in the Ottawa Citizen on 23 October 1990 and reproduced in Farson, Stuart (1990) 'Canada's Foreign Intelligence Capacity', Canadian Association for Security and Intelligence Studies Newsletter, Vol. 15, p. 42.

⁹ Finn, Thomas D'Arcy (Ted) (1993), *op. cit.* note 1.

¹⁰ Hensler, Alistair S. (1995), *op. cit.* note 1.

¹¹ Russell, Peter H. (1988) Should Canada Establish a Foreign Intelligence Agency?, Ottawa: Security Intelligence Review Committee.

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¹⁵ Betke, Carl and Horrall, Stan W. (1978) Canada's Security Service: An Historical Outline 1864-1966, Ottawa: RCMP Historical Section, p. ix. For an assessment of this 811-page historical 'outline', see Hannant, Larry (1993) 'Access to the Inside: An Assessment of 'Canada's Secret Service: A History'', Intelligence and National Security, Vol. 8 (3), pp. 149-159.

History of Ottawa's Reluctance to Create a Foreign Intelligence Service

¹⁶ See Appendix A for a broader historical background.

¹⁷ Hensler, Alistair S. (1995), *op. cit.* note 1, pp. 17-25.

¹⁸ *Ibid.*, pp. 17-18.

¹⁹ Wark, Wesley K. (1989) 'The Evolution of Military Intelligence in Canada', Armed Forces and Society, Vol. 16 (1), p. 87, and Hensler, Alistair S. (1995), *op. cit.* note 1, p. 19.

²⁰ Richelson, Jeffrey T. (1998) Foreign Intelligence Organizations, Cambridge: Ballinger Publishing, p. 71.

²¹ The *CSIS Act* is presented in Appendix C.

²² Security Intelligence Review Committee (1989) Annual Report 1988-1989, Ottawa: The Committee, p. 13.

²³ Ljunggren, David (2002) 'Canada Freezes Idea of Foreign Intelligence Agency', National Post, 11 April.

The Canadian Foreign Intelligence Apparatus and Its Shortcomings

²⁴ Privy Council Office (2001) The Canadian Security and Intelligence Community: Helping Keep Canada and Canadians Safe and Secure, Ottawa: The Department. The chart in Appendix B gives an overview of the actors tasked with security and intelligence functions as well as the links between them.

²⁵ Canada (2001a) Anti-Terrorism Act, Statutes of Canada 2001, chapter 41, thereafter *Anti-Terrorism Act*.

²⁶ Revised Statutes of Canada 1985, chapter C-46.

²⁷ Contravention to this section is a criminal offence which can lead to a fine of not more than \$100,000, to imprisonment for a term of not more than one year (on summary conviction), or to imprisonment for a term of not more than 10 years (on conviction on indictment).

²⁸ For a discussion on how the new *Anti-Terrorism Act* satisfies legitimate intelligence-gathering and information-security requirements, see Wark, Wesley K. (2001) 'Intelligence Requirements and Anti-Terrorism Legislation', in Daniels, Ronald J., Macklem, Patrick and Roach, Kent (ed.), The Security of Freedom: Essays on Canada's Anti-Terrorism Bill, Toronto: University of Toronto Press, pp. 287-296.

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³⁶ Canada (1985) Canadian Security Intelligence Service Act, Revised Statutes of Canada 1985, chapter C-23, thereafter *CSIS Act*.

³⁷ Generally on the *CSIS Act*, see Kavchak, Andrew (1989) Canadian National Security and the CSIS Act, Toronto: Mackenzie Institute, Edwards, John Ll. J. (1985) 'The Canadian Security Intelligence Act 1984 – a Canadian Appraisal', Oxford Journal of Legal Studies, Vol. 5 (1), pp. 143-153, and Chung, Daniel Cayley (1985) 'Internal Security: Establishment of a Canadian Security Intelligence Service', Harvard International Law Journal, Vol. 26, pp. 234-249. The *CSIS Act* is reproduced in Appendix C.

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⁴⁵ Security Intelligence Review Committee (2002), *op. cit.* note 3, p. 19. 'As of April 2000, CSIS had 217 formal liaison arrangements with 130 countries': Aubry, Jack and Bronskill, Jim (2001) 'Leave Foreign Spying to CSIS, Director Insists: Agency Already Carrying Out Overseas Operations', Ottawa Citizen, 19 October 2001, referring to Security Intelligence Review Committee (2000) SIRC Report 1999-2000: An Operational Audit of the Canadian Security Intelligence Service, Ottawa: The Committee, p. 29.

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- ¹⁵⁵ See Thompson, John C. (2002), *op. cit.* note 64, and Hadwen, John (2002) 'Canadian Intelligence Services in the War on Terrorism', National Network News, Vol. 9 (1), p. 32.
- ¹⁵⁶ See also Anonymous (1988b), *op. cit.* note 104, p. B6, and Security Intelligence Review Committee (1994), *op. cit.* note 12, p. 9.
- ¹⁵⁷ Russell, Peter H. (1988), *op. cit.* note 11, p. 6. See also Security Intelligence Review Committee (1994), *op. cit.* note 12, p. 9, and Starnes, John (1982), *op. cit.* note 7, p. 9.
- ¹⁵⁸ Aubry, Jack and Bronskill, Jim (2001), *op. cit.* note 45.
- ¹⁵⁹ See Cheadle, Bruce (2001) 'Le SCRS fait d  j   de l'espionnage    l'  tranger, affirme son directeur', Canadian Press, 18 October, and Chwialkowska, Luiza (2001), *op. cit.* note 120.
- ¹⁶⁰ Russell, Peter H. (1988), *op. cit.* note 11, p. 8. See also Security Intelligence Review Committee (1994), *op. cit.* note 12, p. 9.

¹⁶¹ Vienneau, David (1989) 'Don't Spy Abroad, Ex-Mountie Says', The Toronto Star, 30 September, p. A13. See also Starnes, John (1982), *op. cit.* note 7, p. 9.

¹⁶² See, for example, Starnes, John (1998), *op. cit.* note 154, p. 156.

¹⁶³ Mention of that recently created program can be found in Security Intelligence Review Committee (1999) SIRC Annual Report 1998-1999: An Operational Audit of the Canadian Security Intelligence Service, Ottawa: The Committee, p. 27.

Establishing the Canadian Foreign Intelligence Service

¹⁶⁴ Starnes, John (1987) 'A Canadian Secret Intelligence Service?', International Perspectives, July/August, p. 9.

¹⁶⁵ Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police (1981), *op. cit.* note 6, p. 645.

¹⁶⁶ Hensler, Alistair S. (1995), *op. cit.* note 1, p. 31.

¹⁶⁷ Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police (1981), *op. cit.* note 6, p. 645.

¹⁶⁸ Solicitor General of Canada (1991), *op. cit.* note 138, p. 57.

¹⁶⁹ See Chwialkowska (2001), and Hensler, Alistair S. (2001), *op. cit.* note 149.

¹⁷⁰ Department of Foreign Affairs and International Trade (2001) US, British and Australian Models for Foreign Intelligence Collection, Ottawa: The Department, p. 6.

¹⁷¹ Joint Intelligence Committee (1951) Report on the Establishment of an Australian Secret Service, Canberra: The Committee, p. 7.

¹⁷² Department of Foreign Affairs and International Trade (2001), *op. cit.* note 170, p. 8.

¹⁷³ Starnes, John (1992) 'Espionage Canada?', Ottawa Citizen, 2 July, p. A11. See also Starnes, John (1987), *op. cit.* note 164, p. 7.

¹⁷⁴ See Hensler, Alistair S. (1995), *op. cit.* note 1, p. 31, and Chwialkowska (2001).

¹⁷⁵ Pike, John (1998) Intelligence Agency: Budget and Personnel (1998), Online: <http://www.fas.org/irp/agency/budget1.htm>, accessed 31 October 2002.

¹⁷⁶ Dorril, Stephen (2000) MI6: Inside the Covert World of Her Majesty's Secret Intelligence Service, New York: Free Press, p. 798.

¹⁷⁷ Anonymous (1994) 'UK Employs 10,766 Spies', Statewatch, Vol. 4 (2).

¹⁷⁸ Defence Committee (1951) Observations of the Defence Committee on the Report to the Prime Minister on the Establishment of an Australia Secret Service, Canberra: The Committee, p. 12.

¹⁷⁹ Department of Foreign Affairs and Trade (2002) Portfolio Budget Statements 2002-03, Canberra: The Department, p. 185.

¹⁸⁰ Starnes, John (1982), *op. cit.* note 7, p. 9.

¹⁸¹ Finn, Thomas D'Arcy (Ted) (1993), *op. cit.* note 1, p. 160.

¹⁸² See Sallot, Jeff (1996b), *op. cit.* note 82, p. A1, and Anonymous (2002a), *op. cit.* note 112.

¹⁸³ Bloodworth, Margaret (2002) [untitled speech], Canadian Association for Security and Intelligence Studies Conference, 27 September.

¹⁸⁴ Hensler, Alistair S. (1995), *op. cit.* note 1, p. 34.

¹⁸⁵ Department of Finance (2001), *op. cit.* note 90, p. 86.

¹⁸⁶ Australia (2001) Intelligence Services Act 2001, No. 152, 2001, Section 6(4). See also Hensler, Alistair S. (1995), *op. cit.* note 1, p. 29, Starnes, John (1987), *op. cit.* note 164, p. 8, and Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police (1981), *op. cit.* note 6, p. 645.

¹⁸⁷ See Hensler, Alistair S. (1999b), *op. cit.* note 80, p. A-17, Australia (2001), *op. cit.* note 186, Section 6(1), and Department of Foreign Affairs and International Trade (2001), *op. cit.* note 170, p. 6.

¹⁸⁸ Hensler, Alistair S. (1999b), *op. cit.* note 80, p. A-17, Canada (2001b) Edited Hansard of 37th Parliament, 1st Session, Number 079, 17 September, 23:15, and Brown, Jim (2001b), *op. cit.* note 35.

¹⁸⁹ Starnes, John (1995) 'The Dangers of Creating a Foreign Spy Agency', The Globe and Mail, 18 September.

¹⁹⁰ Sallot, Jeff (1996b), *op. cit.* note 82, p. A1.

Conclusion

¹⁹¹ Whitaker, Reg (1991), *op. cit.* note 33, p. 132.

Appendices

Appendix A

Chronology of Significant Events in Canadian Intelligence History*

19 October 1864 A group of 25 American criminals dressed as Confederates left Canada and launched a violent raid on the small town of St. Albans in Vermont, wounding one citizen and killing another. That incident led the Americans to suspect Canada of harbouring Confederates. To show good faith, the then Canadian Prime Minister John Alexander Macdonald established a 2,000-strong militia to patrol the border.

17 December 1864 The Western Frontier Constabulary was created in the midst of the American Civil War. It constituted of a group of detectives tasked with the collection of intelligence on possible threats to peace and British neutrality. Canada therefore succeeded in appeasing the United States by creating its first own intelligence service.

1865 The mandate of the Western Frontier Constabulary changed to focus on the threat from the Irish Republican Brotherhood also known as the Fenian, a secret revolutionary organisation dedicated to the overthrow of British rule in Ireland. Operations against the Fenians included intelligence-gathering but also infiltration – a first in Canadian intelligence history.

1868 The Dominion Police Force was created and took over the mandate of the Western Frontier Constabulary. The intelligence operations remained sporadic, very limited and did not benefit from a distinct administrative unit within the service.

1873 The North West Mounted Police (NWMP) was created and coexisted with the Dominion Police Force but did not have intelligence-gathering functions at that time.

1885 The North West Rebellion, led by Louis Riel, occurred.

1896 The Yukon Gold Rush took place.

1900 Welland Canal bombing.

1914-18 The First World War broke out in 1914 and the NWMP, then renamed the Royal North West Mounted Police (RNWMP), assumed the most important role in intelligence-gathering and acquired a national security role that it was to keep even after the war.

1920 After the war, the RNWMP absorbed the Dominion Police Force and became the RCMP. From then until 1984, intelligence functions were performed by police officers who were therefore fulfilling two roles at the same time.

1934 Government officials publicly acknowledged the existence of a security service within the RCMP. It was still not a formalised and distinct administrative unit and in addition, it was strictly limited to operations within Canada. Therefore, for any intelligence related to foreign powers or individuals, the security service had to rely on open sources or allied services, mainly Britain and the United States.

1939-45 The Second World War started in 1939 and Canada got involve in some wartime foreign intelligence operations by establishing a signals intelligence agency (see below) and by providing human intelligence (HUMINT) support to the British. On the domestic front, the RCMP was tasked with the detection and the fight against the threat stemming from German, Italian and Japanese immigrants already in Canada.

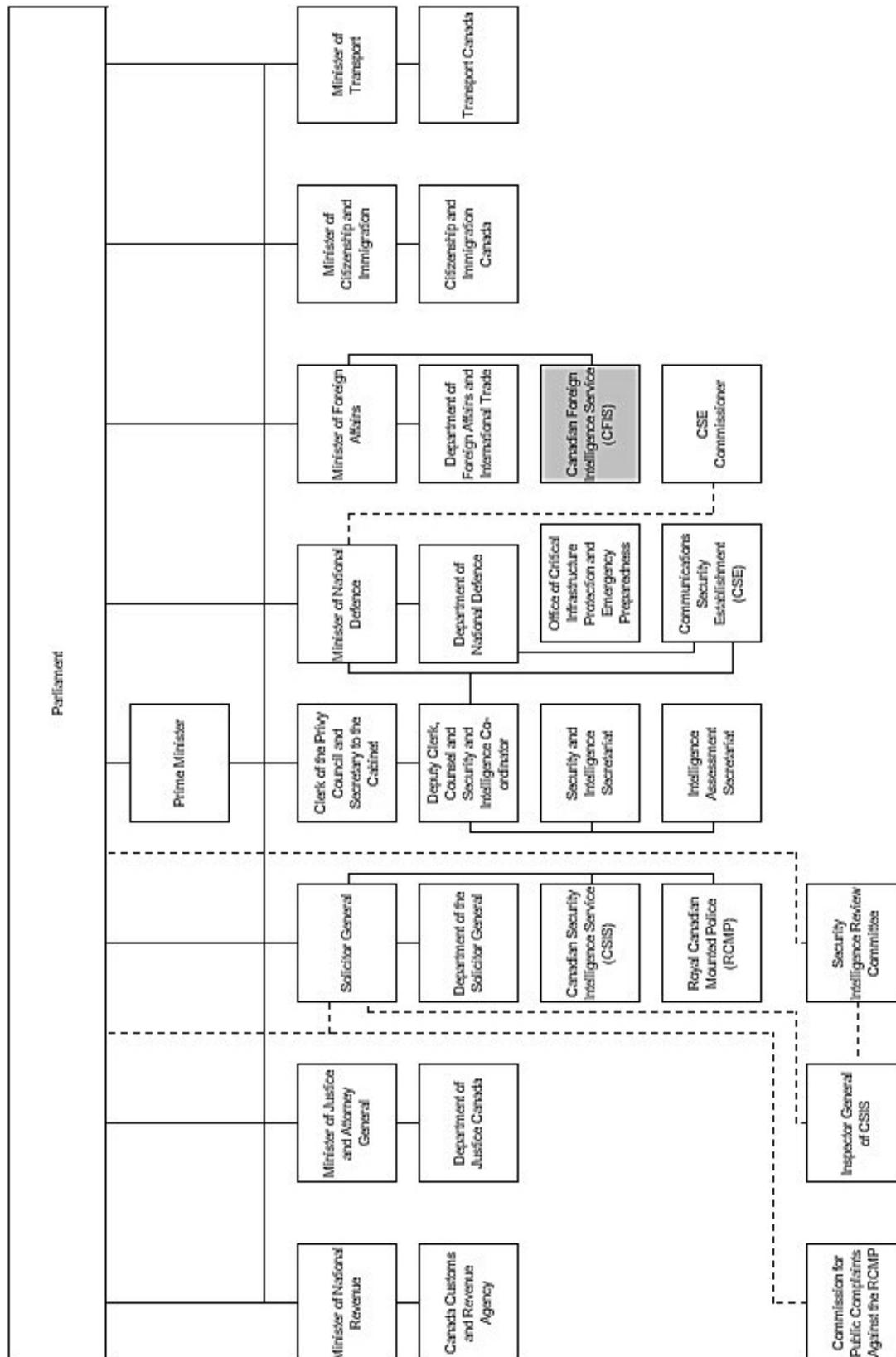
* This chronology is based on Rosen, Philip (2000) The Canadian Security Intelligence Service, Ottawa: Parliamentary Research Branch, Mellon, Jérôme (1999a) L'évolution du renseignement de sécurité au Canada, Bachelor of Laws Research Paper, Québec: Université Laval, Wark, Wesley K. (1993) 'The Intelligence Revolution and the Future', Queen's Quarterly, Vol. 100 (2), pp. 273-287, Rosen, Philip (1993) The Communications Security Establishment – Canada's Most Secret Intelligence Agency, Ottawa: Parliamentary Research Branch, Canadian Security Intelligence Service (2002a) Counter-Terrorism, Online: http://www.csis-scrs.gc.ca/eng/backgrnd/back8_e.html, accessed 7 November 2002, and Kennedy, Paul E. (2002) 'Security Intelligence – A Risk Management Enterprise', National Policy Research Conference, 24 October, p. 3.

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- 1941 The Examination Unit of the National Research Council was created to intercept and analyse the communications of Vichy France and Germany
- 1945 Canadian intelligence was put under the spotlight following the defection in 1945 of Igor Gouzenko, a Soviet cipher clerk working at the Russian embassy in Ottawa. The GRU agent revealed to the West the existence of a large Soviet intelligence network in North America designed to acquire details on the nuclear programme. It was the beginning of the Cold War.
- 1946 The Examination Unit of the National Research Council was renamed the Communications Branch (CBNRC) and was given the responsibility for peacetime SIGINT operations.
- 1948 The UK/USA Security Agreement was signed, establishing a formal network of cooperation between the United States, the United Kingdom, Canada, Australia and New Zealand. Canada entered into a similar arrangement with the United States called the CANUSA Agreement.
- 1953 The Foreign Intelligence Interview Programme was created within DFAIT to debrief ordinary individuals, providing political, economic, social, technological and scientific information from hardly accessible areas.
- 1969 The Royal Commission on Security recommended creation of a civilian security agency. The government decided against this, but promised to make the Special Branch more separate and increase the civilian staff.
- 1970 The Special Branch became the Security Service (RCMP/SS), under the direction of a civilian Director General, John Starnes.
- October 1970 James Cross was kidnapped and Pierre Laporte was kidnapped and murdered by the Front de liberation du Québec (FLQ). The *War Measures Act* was proclaimed.
- 1971-74 Particularly, but not exclusively, in Québec, the Security Service undertook a series of acts, many apparently illegal, to neutralise radical and separatist groups.
- 1974 The existence and functions of the Communications Branch of the National Research Council came to public attention for the first time.
- 1 April 1975 The CBNRC was transferred to the Department of National Defence as the Communications Security Establishment (CSE).
- 25 August 1981 The final report of the McDonald Commission was made public.
- 22 September 1983 The CSE existence was officially acknowledged by the Government of Canada.
- 16 July 1984 All but Part II of the *Canadian Security Intelligence Service Act* was proclaimed in force.
- 31 August 1984 Part II of the *CSIS Act*, which deals with warrants, was proclaimed in force.
- 1985 The Security and Intelligence Bureau (ISD) was created within DFAIT.
- 23 June 1985 The Air India Flight 182 travelling from Montréal to London was bombed off the coast of Ireland, claiming 329 lives.
- 27 June 1989 The House of Commons established a Special Committee to conduct the five-year review of the provision and operation of the *CSIS Act* and the *Security Offences Act*.
- November 1989 The Berlin Wall fell and the Warsaw Pact effectively collapsed.
- 1991 The former Soviet Union dissolved, its successor states faced ethnic and political instability, including civil war in Yugoslavia, all of which had a spill-over effect on Canadian émigré communities; the Persian Gulf War and other conflicts in Africa and the Asian subcontinent created mass migration and refugee movements; and, a number of developing countries were seen to be emerging nuclear nations, military stockpiles became available on the open market and nuclear scientists and their expertise were being exported from the former Soviet Union.
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- 1991 Members of a religious sect based in Pakistan, Jammāt ul Fuqra, were arrested attempting to enter Canada from the United States. They were subsequently convicted of conspiracy to bomb a Hindu temple, movie theatre and East Indian restaurant in Toronto.
- 1992 CSIS reported that most terrorist threats originated from volatile situations abroad, such as Sikh and Tamil terrorism and terrorist activities in the Middle East, Armenia and Northern Ireland; Russia's and China's intelligence services remained active against Western interests; and right-wing extremism in parts of Europe (as well as in Canada) remained a source of concern.
- 1992 The Iranian Embassy in Ottawa was stormed and briefly occupied by members of the Mujahedin-e-Khalq, a terrorist group opposed to the Iranian government. This attack took place almost simultaneously with similar raids on Iranian embassies in five European cities and Australia. In the Ottawa incident, the Iranian Ambassador was slightly injured in a struggle with one of the assailants.
- 1993 DFAIT responsibility and capacity for foreign and economic intelligence was transferred to the PCO's Intelligence Assessment Secretariat.
- 1993 Russia and China continued to seek technological parity with the West, particularly as regards technology for military purposes; the World Trade Centre in New York was bombed by Middle Eastern terrorists; and worrisome trends such as the proliferation of weapons of mass destruction and missiles with which to deliver them and the internationalisation of organised crime affected the assessment of threats facing Canada.
- 1994 CSIS reported that it no longer investigated many countries that once were a concern, and, in fact, CSIS began to develop liaison relations with the intelligence services of former Warsaw Pact countries. However, international terrorism continued to affect CSIS priorities as a result of such incidents as a bombing in Buenos Aires, two car bombings in London, England and the hijacking of an Air France jet in Algeria.
- 14-29 August 1994 A number of public allegations were made about the role of a CSIS human source, Grant Bristow, in the establishment and activities of the Heritage Front. The SIRC decided to investigate public allegations concerning CSIS and the Heritage Front.
- 1995 The IRA exploded a bomb in London which ultimately rendered the ceasefire a shambles; Algeria dissolved into civil strife, triggering a wave of terrorism against foreigners and France; in Sri Lanka, a secessionist battle led to a powerful truck bomb that killed more than 50 people; and a nerve gas attack in a Tokyo subway by the Aum Shinrikyo cult killed 12 and injured at least 5,500.
- 31 January 1996 Suspected Liberation Tigers of Tamil Eelam (LTTE) suicide bombers rammed an explosives-laden truck into the Central Bank in downtown Colombo, Sri Lanka, killing 90 and injuring more than 1,400, including some foreign nationals. The LTTE is a separatist movement of the Tamil Hindu minority, concentrated in the north and eastern coastal areas of Sri Lanka. It has been waging an insurgency in the north and terrorist operations throughout the island since 1983.
- 17 December 1996 Gunmen broke into a residential area of the International Committee of the Red Cross (ICRC) in Novyy Atagi, Chechnya, fatally shooting six employees and wounding a seventh. A Canadian nurse was among those killed.
- 17 December 1996 Terrorists belonging to Peru's Marxist-Leninist Tupac Amaru Revolutionary Movement (MRTA) took over the Japanese Ambassador's residence in Lima during a diplomatic reception. They captured 500 hostages, including the Canadian ambassador. The incident ended in April 1997 when Peruvian security forces raided the compound and released the remaining 72 hostages. One hostage died in the rescue; all MRTA hostage-takers were killed.
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- 17 November 1997 The terrorist group al-Gama'a al-Islamiya (Islamic Group) shot and killed 58 foreign tourists and four Egyptians and injured 26 people, at Luxor, Egypt. A leaflet left at the scene demanded the release of Umar Abd al-Rahman, the spiritual leader of the Islamic Group, imprisoned for life in the United States for bombing the World Trade Centre in New York in 1993. The Islamic Group is an indigenous Egyptian extremist group attempting to overthrow the Egyptian state and replace it with an Islamic one.
- 1998 A visiting Iranian politician was assaulted during a public lecture in Ottawa.
- 7 August 1998 A massive bomb in the centre of Nairobi, Kenya destroyed a building adjacent to the US embassy and almost destroyed the embassy itself. Windows were shattered at the nearby Canadian embassy and one locally engaged staff injured. Those killed numbered 257, and some 5,000 were injured. A similar bombing in Dar es Salaam, Tanzania on the same day killed 10 and injured 74. The Islamic Army for the Liberation of Holy Sites, believed to be a creation of Osama bin Laden, claimed credit for the attacks.
- 15 August 1998 A bombing in Omagh, Northern Ireland, killed 29 and injured over 200. The bombing resulted from an attempt by a splinter group of the Irish Republican Army calling itself the "Real IRA" to derail serious peace talks involving all parties to Ireland's protracted period of violence.
- 1999 Kurdish expatriates in over a dozen countries mobilised in violent protest on news of the capture of Abdullah Ocalan, leader of the insurgent Kurdistan Workers' Party (PKK), now called the Freedom and Democracy Congress of Kurdistan (KADEK). The Turkish government announced that Ocalan had been captured in Kenya and returned to Turkey to face trial on treason charges. The main focus of the protests was the embassies and consulates of Greece, Turkey, Israel and the UK. In Canada, violent demonstrations erupted in Ottawa and Montréal: in Ottawa, a police officer's clothes were set on fire with a Molotov cocktail; in Montréal, a police officer lost an eye after being hit with a rock.
- 14 December 1999 Montréal resident Ahmed Ressay was arrested in Port Angeles, Washington, while attempting to cross into the US carrying bomb-making material he had assembled in Canada. He claimed that the intended target was Los Angeles airport. Ressay was convicted on April 6, 2001 by a Los Angeles jury.
- 12 October 2000 In Aden, Yemen, a boat filled with explosives rammed an American warship, the USS Cole, in a suicide attack, killing 17 US service personnel and injuring 39 others. The attack was believed to have been initiated by Al Qaeda.
- 11 September 2001 Four U.S. planes hijacked by terrorists crashed into the World Trade Centre (New York), The Pentagon (Washington) and a field in Pennsylvania killing more than 3,000 people in a matter of hours, including many Canadians.
- December 2001 Following the terrorist attacks in the United States on 11 September 2001, the government of Canada announced its 2001 budget underscoring its commitment to fighting terrorism and reinforcing public and economic security.
- 18 December 2001 The *Anti-Terrorism Act* is assented. Its Section 102 amended the *National Defence Act* by adding 10 articles confirming the existence of CSE, describing its mandate, and broadening its powers to intercept communications.
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Appendix B
Canadian Departments and Agencies with Security and Intelligence Roles[†]



[†] Adapted from Privy Council Office (2001) *The Canadian Security and Intelligence Community: Helping Keep Canada and Canadians Safe and Secure*, Ottawa: The Department, p. 20.

Appendix CSections 1 to 20 of the Canadian Security Intelligence Service Act[‡]**Canadian Security Intelligence Service Act****CHAPTER C-23**

An Act to establish the Canadian Security Intelligence Service

SHORT TITLEShort title **1.** This Act may be cited as the *Canadian Security Intelligence Service Act*.**INTERPRETATION**Definitions **2.** In this Act,

"department" "department", in relation to the government of Canada or of a province, includes

(a) any portion of a department of the Government of Canada or of the province, and

(b) any Ministry of State, institution or other body of the Government of Canada or of the province or any portion thereof;

"Deputy Minister" "Deputy Minister" means the Deputy Solicitor General and includes any person acting for or on behalf of the Deputy Solicitor General;

"Director" "Director" means the Director of the Service;

"employee" "employee" means a person who is appointed as an employee of the Service pursuant to subsection 8(1) or has become an employee of the Service pursuant to subsection 66(1) of the *Canadian Security Intelligence Service Act*, chapter 21 of the Statutes of Canada, 1984, and includes a person who is attached or seconded to the Service as an employee;

"foreign state" "foreign state" means any state other than Canada;

"Inspector General" "Inspector General" means the Inspector General appointed pursuant to subsection 30(1);

"intercept" "intercept" has the same meaning as in section 183 of the *Criminal Code*;

"judge" "judge" means a judge of the Federal Court designated by the Chief Justice thereof for the purposes of this Act;

"Minister" "Minister" means the Solicitor General of Canada;

"place" "place" includes any conveyance;

"Review Committee" "Review Committee" means the Security Intelligence Review Committee established by subsection 34(1);

"security assessment" "security assessment" means an appraisal of the loyalty to Canada and, so far as it relates thereto, the reliability of an individual;

"Service" "Service" means the Canadian Security Intelligence Service established by subsection 3(1);

"threats to the security of Canada" "threats to the security of Canada" means

[‡] Revised Statutes (1985), chapter C-23.

(a) espionage or sabotage that is against Canada or is detrimental to the interests of Canada or activities directed toward or in support of such espionage or sabotage,

(b) foreign influenced activities within or relating to Canada that are detrimental to the interests of Canada and are clandestine or deceptive or involve a threat to any person,

(c) activities within or relating to Canada directed toward or in support of the threat or use of acts of serious violence against persons or property for the purpose of achieving a political, religious or ideological objective within Canada or a foreign state, and

(d) activities directed toward undermining by covert unlawful acts, or directed toward or intended ultimately to lead to the destruction or overthrow by violence of, the constitutionally established system of government in Canada,

but does not include lawful advocacy, protest or dissent, unless carried on in conjunction with any of the activities referred to in paragraphs (a) to (d).

PART I

CANADIAN SECURITY INTELLIGENCE SERVICE

Establishment of Service

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| Establishment of Service | 3. (1) The Canadian Security Intelligence Service is hereby established, consisting of the Director and employees of the Service. |
| Principal office | (2) The principal office of the Service shall be in the National Capital Region described in the schedule to the <i>National Capital Act</i> . |
| Other offices | (3) The Director may, with the approval of the Minister, establish other offices of the Service elsewhere in Canada. |

Director

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| Appointment | 4. (1) The Governor in Council shall appoint the Director of the Service. |
| Term of office | (2) The Director shall be appointed to hold office during pleasure for a term not exceeding five years. |
| Re-appointment | (3) Subject to subsection (4), the Director is eligible, on the expiration of a first or any subsequent term of office, to be re-appointed for a further term not exceeding five years. |
| Limitation | (4) No person shall hold office as Director for terms exceeding ten years in the aggregate. |
| Absence or incapacity | (5) In the event of the absence or incapacity of the Director, or if the office of Director is vacant, the Governor in Council may appoint another person to hold office instead of the Director for a term not exceeding six months, and that person shall, while holding that office, have all of the powers, duties and functions of the Director under this Act or any other Act of Parliament and be paid such salary or other remuneration and expenses as may be fixed by the Governor in Council. |
| Salary and expenses | 5. (1) The Director is entitled to be paid a salary to be fixed by the Governor in Council and shall be paid reasonable travel and living expenses incurred by the Director in the performance of duties and functions under this Act. |

Pension benefits (2) The provisions of the *Public Service Superannuation Act*, other than those relating to tenure of office, apply to the Director, except that a person appointed as Director from outside the Public Service, as defined in the *Public Service Superannuation Act*, may, by notice in writing given to the President of the Treasury Board not more than sixty days after the date of appointment, elect to participate in the pension plan provided by the *Diplomatic Service (Special) Superannuation Act*, in which case the provisions of that Act, other than those relating to tenure of office, apply to the Director from the date of appointment and the provisions of the *Public Service Superannuation Act* do not apply.

Management of Service

Role of Director **6.** (1) The Director, under the direction of the Minister, has the control and management of the Service and all matters connected therewith.

Minister may issue directions (2) In providing the direction referred to in subsection (1), the Minister may issue to the Director written directions with respect to the Service and a copy of any such direction shall, forthwith after it is issued, be given to the Review Committee.

Directions deemed not to be statutory instruments (3) Directions issued by the Minister under subsection (2) shall be deemed not to be statutory instruments for the purposes of the *Statutory Instruments Act*.

Consultation with Deputy Minister **7.** (1) The Director shall consult the Deputy Minister on

(a) the general operational policies of the Service; and

(b) any matter with respect to which consultation is required by directions issued under subsection 6(2).

Idem (2) The Director or any employee designated by the Minister for the purpose of applying for a warrant under section 21 or 23 shall consult the Deputy Minister before applying for the warrant or the renewal of the warrant.

Advice by Deputy Minister (3) The Deputy Minister shall advise the Minister with respect to directions issued under subsection 6(2) or that should, in the opinion of the Deputy Minister, be issued under that subsection.

Powers and duties of Director **8.** (1) Notwithstanding the *Financial Administration Act* and the *Public Service Employment Act*, the Director has exclusive authority to appoint employees and, in relation to the personnel management of employees, other than persons attached or seconded to the Service as employees,

(a) to provide for the terms and conditions of their employment; and

(b) subject to the regulations,

(i) to exercise the powers and perform the duties and functions of the Treasury Board relating to personnel management under the *Financial Administration Act*, and

(ii) to exercise the powers and perform the duties and functions assigned to the Public Service Commission by or pursuant to the *Public Service Employment Act*.

Discipline and grievances of employees (2) Notwithstanding the *Public Service Staff Relations Act* but subject to subsection (3) and the regulations, the Director may establish procedures respecting the conduct and discipline of, and the presentation, consideration and adjudication of grievances in relation to, employees, other than persons attached or seconded to the Service as employees.

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| Adjudication of employee grievances | (3) When a grievance is referred to adjudication, the adjudication shall not be heard or determined by any person, other than a full-time member of the Public Service Staff Relations Board established under section 11 of the <i>Public Service Staff Relations Act</i> . |
| Regulations | (4) The Governor in Council may make regulations <p>(a) governing the exercise of the powers and the performance of the duties and functions of the Director referred to in subsection (1); and</p> <p>(b) in relation to employees to whom subsection (2) applies, governing their conduct and discipline and the presentation, consideration and adjudication of grievances.</p> |
| Process for resolution of disputes of support staff | 9. (1) Notwithstanding the <i>Public Service Staff Relations Act</i> , <p>(a) the process for resolution of a dispute applicable to employees of the Service in a bargaining unit determined for the purposes of that Act is by the referral of the dispute to arbitration; and</p> <p>(b) the process for resolution of a dispute referred to in paragraph (a) shall not be altered pursuant to that Act.</p> |
| <i>Public Service Superannuation Act</i> | (2) Employees of the Service shall be deemed to be employed in the Public Service for the purposes of the <i>Public Service Superannuation Act</i> . |
| No suspension of arbitration | 9.1 (1) Notwithstanding section 62 of the <i>Public Service Staff Relations Act</i> but subject to subsection (2), the operation of sections 64 to 75.1 of that Act is not suspended in respect of the resolution of any dispute applicable to employees of the Service. |
| Limit on maximum rate of increase | (2) During the period referred to in paragraph 62(1)(b) of the <i>Public Service Staff Relations Act</i> , an arbitration board, as defined in subsection 2(1) of that Act, shall, in rendering an arbitral award, limit the aggregate amount of any increase in pay and other benefits in respect of any dispute applicable to employees of the Service to that concluded through collective bargaining or otherwise by a comparable bargaining unit in the Public Service, within the meaning of that Act, after the compensation plan applicable to that bargaining unit ceased to be continued by virtue of the <i>Public Sector Compensation Act</i> . |
| Oaths | 10. The Director and every employee shall, before commencing the duties of office, take an oath of allegiance and the oaths set out in the schedule. |
| Certificate | 11. A certificate purporting to be issued by or under the authority of the Director and stating that the person to whom it is issued is an employee or is a person, or a person included in a class of persons, to whom a warrant issued under section 21 or 23 is directed is evidence of the statements contained therein and is admissible in evidence without proof of the signature or official character of the person purporting to have issued it. |
| <i>Duties and Functions of Service</i> | |
| Collection, analysis and retention | 12. The Service shall collect, by investigation or otherwise, to the extent that it is strictly necessary, and analyse and retain information and intelligence respecting activities that may on reasonable grounds be suspected of constituting threats to the security of Canada and, in relation thereto, shall report to and advise the Government of Canada. |

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| Security assessments | <p>13. (1) The Service may provide security assessments to departments of the Government of Canada.</p> |
| Arrangements with provinces | <p>(2) The Service may, with the approval of the Minister, enter into an arrangement with</p> <p>(a) the government of a province or any department thereof, or</p> <p>(b) any police force in a province, with the approval of the Minister responsible for policing in the province,</p> <p>authorizing the Service to provide security assessments.</p> |
| Arrangements with foreign states | <p>(3) The Service may, with the approval of the Minister after consultation by the Minister with the Minister of Foreign Affairs, enter into an arrangement with the government of a foreign state or an institution thereof or an international organization of states or an institution thereof authorizing the Service to provide the government, institution or organization with security assessments.</p> |
| Advice to Ministers | <p>14. The Service may</p> <p>(a) advise any minister of the Crown on matters relating to the security of Canada, or</p> <p>(b) provide any minister of the Crown with information relating to security matters or criminal activities,</p> <p>that is relevant to the exercise of any power or the performance of any duty or function by that Minister under the <i>Citizenship Act</i> or the <i>Immigration Act</i>.</p> |
| Investigations | <p>15. The Service may conduct such investigations as are required for the purpose of providing security assessments pursuant to section 13 or advice pursuant to section 14.</p> |
| Collection of information concerning foreign states and persons | <p>16. (1) Subject to this section, the Service may, in relation to the defence of Canada or the conduct of the international affairs of Canada, assist the Minister of National Defence or the Minister of Foreign Affairs, within Canada, in the collection of information or intelligence relating to the capabilities, intentions or activities of</p> <p>(a) any foreign state or group of foreign states; or</p> <p>(b) any person other than</p> <p>(i) a Canadian citizen,</p> <p>(ii) a permanent resident within the meaning of the <i>Immigration Act</i>, or</p> <p>(iii) a corporation incorporated by or under an Act of Parliament or of the legislature of a province.</p> |
| Limitation | <p>(2) The assistance provided pursuant to subsection (1) shall not be directed at any person referred to in subparagraph (1)(b)(i), (ii) or (iii).</p> |

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| Personal consent of Ministers required | <p>(3) The Service shall not perform its duties and functions under subsection (1) unless it does so</p> <p>(a) on the personal request in writing of the Minister of National Defence or the Minister of Foreign Affairs; and</p> <p>(b) with the personal consent in writing of the Minister.</p> |
| Cooperation | <p>17. (1) For the purpose of performing its duties and functions under this Act, the Service may,</p> <p>(a) with the approval of the Minister, enter into an arrangement or otherwise cooperate with</p> <p>(i) any department of the Government of Canada or the government of a province or any department thereof, or</p> <p>(ii) any police force in a province, with the approval of the Minister responsible for policing in the province; or</p> <p>(b) with the approval of the Minister after consultation by the Minister with the Minister of Foreign Affairs, enter into an arrangement or otherwise cooperate with the government of a foreign state or an institution thereof or an international organization of states or an institution thereof.</p> |
| Copies of arrangements to Review Committee | <p>(2) Where a written arrangement is entered into pursuant to subsection (1) or subsection 13(2) or (3), a copy thereof shall be given forthwith to the Review Committee.</p> |
| Offence to disclose identity | <p>18. (1) Subject to subsection (2), no person shall disclose any information that the person obtained or to which the person had access in the course of the performance by that person of duties and functions under this Act or the participation by that person in the administration or enforcement of this Act and from which the identity of</p> <p>(a) any other person who is or was a confidential source of information or assistance to the Service, or</p> <p>(b) any person who is or was an employee engaged in covert operational activities of the Service</p> <p>can be inferred.</p> |
| Exceptions | <p>(2) A person may disclose information referred to in subsection (1) for the purposes of the performance of duties and functions under this Act or any other Act of Parliament or the administration or enforcement of this Act or as required by any other law or in the circumstances described in any of paragraphs 19(2)(a) to (d).</p> |
| Offence | <p>(3) Every one who contravenes subsection (1)</p> <p>(a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years; or</p> <p>(b) is guilty of an offence punishable on summary conviction.</p> |

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| Authorized disclosure of information | 19. (1) Information obtained in the performance of the duties and functions of the Service under this Act shall not be disclosed by the Service except in accordance with this section. |
| Idem | (2) The Service may disclose information referred to in subsection (1) for the purposes of the performance of its duties and functions under this Act or the administration or enforcement of this Act or as required by any other law and may also disclose such information, <p data-bbox="373 483 1378 633">(a) where the information may be used in the investigation or prosecution of an alleged contravention of any law of Canada or a province, to a peace officer having jurisdiction to investigate the alleged contravention and to the Attorney General of Canada and the Attorney General of the province in which proceedings in respect of the alleged contravention may be taken;</p> <p data-bbox="373 701 1378 790">(b) where the information relates to the conduct of the international affairs of Canada, to the Minister of Foreign Affairs or a person designated by the Minister of Foreign Affairs for the purpose;</p> <p data-bbox="373 853 1378 909">(c) where the information is relevant to the defence of Canada, to the Minister of National Defence or a person designated by the Minister of National Defence for the purpose; or</p> <p data-bbox="373 972 1378 1084">(d) where, in the opinion of the Minister, disclosure of the information to any minister of the Crown or person in the public service of Canada is essential in the public interest and that interest clearly outweighs any invasion of privacy that could result from the disclosure, to that minister or person.</p> |
| Report to Review Committee | (3) The Director shall, as soon as practicable after a disclosure referred to in paragraph (2)(d) is made, submit a report to the Review Committee with respect to the disclosure. |
| Protection of employees | 20. (1) The Director and employees have, in performing the duties and functions of the Service under this Act, the same protection under the law as peace officers have in performing their duties and functions as peace officers. |
| Unlawful conduct | (2) If the Director is of the opinion that an employee may, on a particular occasion, have acted unlawfully in the purported performance of the duties and functions of the Service under this Act, the Director shall cause to be submitted a report in respect thereof to the Minister. |
| Report and comments to Attorney General of Canada | (3) The Minister shall cause to be given to the Attorney General of Canada a copy of any report that he receives pursuant to subsection (2), together with any comment that he considers appropriate in the circumstances. |
| Copies to Review Committee | (4) A copy of anything given to the Attorney General of Canada pursuant to subsection (3) shall be given forthwith to the Review Committee. |

Appendix D
Personal Email Correspondence

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