

TOP SECRET

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**REVIEW OF A HUMAN SOURCE OPERATION
(SIRC STUDY 2008-04)**

**Security Intelligence Review Committee
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1 INTRODUCTION

After the events of 9/11, Canada took significant legislative steps to fight terrorism. The outcome, *Bill C-36*, also known as the *Anti-Terrorism Act (ATA)*, came into force in December 2001. The main objective of the *Anti-Terrorism Act* was to improve Canada's ability to investigate, detect and prevent terrorist activities at home and abroad.

Early on, SIRC also recognized that the *ATA* could present a challenge to the Service. SIRC raised the issue in Study 2003-02, at which time the Service acknowledged that it was an "understatement" to say the *ATA* would have very wide-ranging implications for its human source operations.⁶ During a 2004 review of the Service's investigation

At the time, SIRC accepted the Service's position that operational policy was sufficient to cover all aspects of human source management. Nevertheless, SIRC noted that it would continue to monitor human source operations involving listed terrorist entities in order to identify issues of concern and re-evaluate the adequacy of operational policy.⁷

It is important for SIRC to understand how the Service has adapted to the post 9/11 legislative reality and ensure that Service activities, especially those that are potentially controversial, are held to account.

⁶ SIRC Study 2003-02: *CSIS Section 12 Operational Activity Outside Canada*, pg. 22-25.

⁷ SIRC Study 2004-05: *Review of a Counter Terrorism Investigation*: pg. 24-28.

2 OBJECTIVE

The objective of this review was to conduct a comprehensive examination of a CSIS human source. SIRC reviewed the management and direction of the source, as well as the activities

In the context of this review, we also examined some broader issues related to human source operations, such as how the Service responded to the potential implications which the *Anti-Terrorism Act* presented to the human source program. SIRC also set out to determine whether the human source program's mechanisms for accountability provide sufficient protection and accountability for the Service and its sources.

3 METHODOLOGY AND SCOPE

SIRC reviewed the source's administrative and financial files, from recruitment through to termination, (operational information) as well as all internal CSIS documents in which were referenced.

A memo CSIS provided to SIRC in the context of SIRC Study 2004-05: *A Review of a Counter Terrorism Investigation*: - formed the basis of SIRC's understanding

SIRC reviewed Ministerial Direction and operational policy to establish the Service's mechanisms for accountability. Open source documents were also reviewed.

SIRC also obtained further information by asking questions of the Service through memos.

4 BACKGROUND: A CSIS HUMAN SOURCE OPERATION

The source became a directed human source
Service's investigation

to assist with the

The Service's decision to _____ was not taken lightly.

What stood out for the Committee in the case of this human source, and one of the main reasons for conducting an indepth review _____ was

_____ In previous studies, SIRC had reviewed sources _____ but the

Committee had not witnessed a source being directed to _____

_____ However, after a thorough review of the documentation **the Committee acknowledges that _____ the result of unforeseen circumstances;**

_____ For SIRC, of greater importance than the _____ is the framework under which such activities are carried out. The following sections will explore this framework - that is, the legal instruments used by the Service to support such activities, as well as the system of accountability and the reporting structure within the Service's human source program.

5 THE SERVICE'S RESPONSE TO THE *ANTI-TERRORISM ACT*

The *Anti-Terrorism Act* presented the Service with a serious challenge,

6 ACCOUNTABILITY AND THE SERVICE'S HUMAN SOURCE PROGRAM

The Service's human source program operates within a framework of directions and controls that stem from Ministerial Direction and operational policy. There is also a reporting structure in place to ensure that the Minister and the CSIS Executive are apprised of all pertinent issues relating to the management of the human source program.¹⁹

In this section, SIRC examines how the Service interprets - and by extension implements - Ministerial Direction and operational policy when it comes to human sources

This will help to determine whether the level of accountability, both to the Minister as well as within the Service, is sufficient.

6.1 Accountability to the Minister

¹⁹ Annex E of Ministerial Direction (2001) is devoted entirely to the human source program, as are operational policies

Although Ministerial Direction and operational policy provide the Director with significant discretion in the day-to-day management of CSIS human sources, he is ultimately accountable to the Minister for the overall management of the program. Accordingly, SIRC believes that the Minister should be kept apprised of significant developments.

The Service may wish to consider implementing a reporting mechanism that would allow CSIS to advise the Minister

That being said, in an effort to ensure adequate protection for sources, and to keep the Minister apprised of significant developments within the human source program, it may be worthwhile for the Service to determine whether
could be adapted to CSIS's operational context.

6.2 Accountability Within the Service

Operational policy delegates responsibility for managing various aspects of the Service's human source program.³⁵ The policies, however, are very general.

The Service does provide regular guidance to its employees on the issue of sources. The Human Sources and Operational Support Branch provides direction and advice to managers and investigators, taking into account the particulars of each individual case. HQ HSOS is also directly involved in educating new employees with respect to source policy and handling techniques.³⁶

Current CSIS operational policies encourage internal dialogue and accountability on important issues relating to human source activities.

³⁵ Operational Policy

³⁶ Memo, CSIS ER&L to SIRC, November 22, 2004.

Although SIRC cannot determine whether the dialogue that transpired in this instance is a reflection of how every such case is handled, we conclude that **a reporting structure is in place to ensure that there is meaningful discussion within the Service about significant matters affecting the management of the human source program.**

7 A LOOK FORWARD

Accountability is especially important when it comes to potentially controversial matters. The Committee believes that the Service directing human sources to _____ is potentially controversial. As a result, these activities should be subject to a high level of accountability.

To ensure sufficient accountability when it comes to human source activity, **SIRC encourages the Service to inform the Minister of the implications of the *Anti-Terrorism Act* on human source operations, and any future related developments.** The Service may wish to go one step further, and include in the Director's Annual Report to the Minister the number of instances in which human sources are directed

SUMMARY OF FINDINGS

- The Committee acknowledges that [redacted] was the result of unforeseen circumstances; [redacted] (Section 4)
- SIRC found that the [redacted] (Section 6.1)
- SIRC concludes that a reporting structure is in place to ensure that there is meaningful discussion within the Service about significant matters affecting the management of the human source program. (Section 6.2)

SUMMARY OF RECOMMENDATIONS

- SIRC encourages the Service to inform the Minister of the implications of the *Anti-Terrorism Act* on human source operations, and any future related developments. (Section 8)

LIST OF ACRONYMS

ATA *Anti-Terrorism Act*

HSOS Human Sources and Operational Support Branch