

TOP SECRET

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**CSIS'S INVESTIGATION
COUNTER INTELLIGENCE THREAT**

SIRC STUDY 2013-03

**Security Intelligence Review Committee
April 28, 2014**

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1 INTRODUCTION

The end of the Cold War and the subsequent rise of the threat of terrorism have led to fundamental changes in intelligence priorities, namely with respect to the nature and thrust of CSIS's investigation direction, which maintains Current government as a high priority, tasks CSIS to focus on: activities which target Canada's public and private sectors;

SIRC has examined some of these activities through recent reviews, such as those on cyber threats. This review sought to take a broader approach by looking at the goals and management of CSIS's counter-intelligence investigation, its evolution, as well as current methods, priorities and challenges.

SIRC looked at the core of CSIS's investigation into the activities and found that, overall, it is well managed, with several strong points, such as CSIS's valuable work and cooperation with partners

As was the case in our 2008 review², SIRC concluded that the Service benefits significantly from its long history in investigating threat and the experience of its investigators.

The Committee also looked at the Service's more recent efforts to take a more "holistic" approach to its investigation. Given the fluidity of the political and economic situation the Committee understands the Service's rationale for looking more broadly at The Service's investigations into non-traditional threats

Still, the review found that the Service's modest movements away from its traditional focus over the past several years have yet to yield substantial results. For this reason, the Committee's review recommended that the Service commit to reassessing the resources devoted to this non-traditional component of the investigation in due course to determine its continued sustainability. As a more general comment, the Committee also found that the Intelligence Assessment Branch's (IAB) tendency to characterize was not well supported.

This review also gave SIRC an opportunity to examine the Service's new warrant power. The Committee concluded that it has significant value in a number of settings. The review then looked at how the power has been used in the

² Review of a Counter Intelligence Investigation –

August 22, 2008

specific context of investigation and found that the collection has resulted in a relatively high number of intercepts,

Given that four years have elapsed since the power was first deployed in this investigation, the Committee recommended that CSIS's next investigation warrant application include summary information similar to that which was compiled for SIRC so as to provide the Federal Court with additional information regarding the application and use of the power in this investigation.

SIRC is mindful that its review is running concurrent to an internal program review that will, among other things, assess the targeting in this investigation and the resources dedicated to these targets. We hope that that our findings and recommendations will help inform this internal review.

2 METHODOLOGY

The main objective of this review was to assess CSIS's methodology vis-à-vis investigation, as well as how the nature, scope and importance of the investigation has evolved. The review did not look at the Service's investigation of [redacted] as this issue was the topic of a previous study. SIRC examined corporate, operational and policy documents related to the Service's investigation. In addition, SIRC held briefings with CSIS Headquarters (HQ) staff representing the [redacted] Branch and held a video-conference with [redacted] district office.

SIRC staff also examined documentation pertaining to the Service's [redacted] warrant power and a sample of the operational reporting associated with this collection effort.

The core review period was from April 1st, 2010 to March 31st, 2013.

3 BACKGROUND AND OVERVIEW OF INVESTIGATION

It continues to be a priority investigation for CSIS,
continues to drive
activities both in Canada and abroad.

Still, the Service's approach to investigating the more traditional CI threat has evolved: since 2008, has been subject to two reorganizations in an effort to better reflect the trajectory of the assessed threat. In 2008, CSIS's Branch undertook a program review

This change was described as a "revamp of its approach to traditional counter espionage investigations by taking a more 'holistic' look at the threat as opposed to just that posed by foreign intelligence services".⁵ The investigations were used as 'test' cases, as CSIS sought to expand its investigation to include
This more holistic approach pushed the Service to look more broadly at

⁵ DDO Directional Statement – 2009.

⁶ DDO Directional Statement – 2009.

In August 2013, the Service completed another reorganization that further reflects, inter alia, the Service's movement toward a more holistic approach

This reorganization was undertaken scheduled to be completed in spring 2014, the objective of which is to take a "hard look" at targeting in this investigation and the resources, described as "extensive", dedicated to these targets. The Branch has signalled that this review will look at "ways to minimize historical rigidity and risk aversion associated with this investigation" and further, that "change is critical to enable an evolved and more dynamic/agile posture against this target."⁸

At the same time, there is a new cyber component to modern espionage that is of concern to the Service and its allies. In its most recent public report, for example, the Service stated that "espionage via technology, especially cyberspace...is becoming more significant every year."⁹ Moreover, for the first time, the Intelligence Priorities for 2012-2013 mention that

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⁸ Business Plan, 2013 – 2016

⁹ Canadian Security Intelligence Agency Public Report, 2010-2011

¹⁰ Ministerial Direction on Intelligence Priorities, 2012-2013

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INVESTIGATION

SIRC believes threat assessments should be more nuanced, but also provide more contextual information to better support any general characterization of the threat.

4.1 New Directions

Since 2008, CSIS has been refocusing its efforts

There is an acknowledged risk of tunnel vision that can creep into an investigation as long-running

As noted above, the Service is taking steps to expand its focus beyond the traditional target base

SIRC looked at targeting authorities and is satisfied that the Service has reasonable grounds to investigate. The operational reporting and the intelligence products associated with these targets were also reviewed. SIRC found, not surprisingly given that these are relatively new targets, that the investigations are not as advanced as those against the traditional targets. For example, although SIRC is aware of

Despite this, the Service has stated that the various initiatives associated with the

program serve as a statement SIRC finds is not well supported in the Canadian context.

SIRC understands how this could be construed as a cause for concern in the context of its investigation.

SIRC noted that one of the difficulties is to determine when an activity or relationship has moved into the clandestine or covert realm.

SIRC made a similar observation in its review of CSIS's investigation into (Study 2012-04). In that study, SIRC recommended that CSIS fine tune its policy and practice in order to assist investigators and analysts in identifying common and consistent thresholds, and in judging when an activity has crossed over into the clandestine realm. The Committee believes that this recommendation warrants reiteration in the context of

Overall, although the Service describes the SIRC's review suggests that this remains more of an intelligence gap at the moment. **Further, the Committee found that defining a sustainable focus for investigation remains a challenge for the Service. It therefore recommends, pending the outcome of the investigation program review, that the Branch commit to reassessing the resources devoted to this component of the investigation in due course to determine its continued sustainability.**

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SIRC found that CSIS has worked well with traditional and non-traditional domestic partners. These efforts serve as a positive example of broader interdepartmental cooperation on an important issue.

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5.1 Investigation

SIRC looked at investigation warrants. SIRC was given a technical briefing. SIRC also wanted to gain an appreciation of how the execution of this power translated into specific numbers. To this end, SIRC was provided with a summary of intercepts.

**The Committee recommends
that CSIS's next warrant application include summary
information similar to that which was provided to SIRC so as to provide the
Federal Court with additional information regarding the application and use of the
power in this investigation.**

SIRC found that the Service's

**restraint in the execution of the Warrant to be appropriate
given the level of intrusiveness associated with the use of this power,**

As a result, as the Service contemplates the expanded use of this power in other investigations and scenarios, the Committee will expect the Service to demonstrate a continued sensitivity to issues of proportionality and operational necessity in determining the reach of the power.

6 CONCLUSION

Since the end of the Cold War, Western intelligence services have been grappling with

At the same time, SIRC was advised during a briefing that one of the foremost challenges is the need to explain and justify its lack of “splash” at the present time when compared to some of the more prominent counter-terrorism investigations.

Overall, SIRC is favourably impressed with the way this investigation is being managed and with the level of expertise and dedication of the investigators. SIRC also finds that CSIS's posture vis-à-vis – taking a more holistic approach - is justifiable given the fluidity and opacity of and the challenges associated with discerning when an activity has crossed over into the clandestine realm. That said, the goal of moving, even modestly, the investigation away from its traditional focus has yet to yield a substantial target base, despite several years of effort in this direction. SIRC would encourage CSIS to reassess, in the short to medium term, the merits of its approach.