

Security Intelligence
Review Committee



Comité de surveillance des activités
de renseignement de sécurité

Office of the Chairman

Bureau du président

TOP SECRET

File No.: 2800-181 (TD R535)

May 1, 2014

The Honourable Steven Blaney
Minister of Public Safety and Emergency Preparedness
Public Safety Canada
Minister's Office
269 Laurier Avenue West
Ottawa, Ontario
K1A 0P8

Dear Minister:

**RE: CERTIFICATION OF THE DIRECTOR'S ANNUAL REPORT TO THE
MINISTER OF PUBLIC SAFETY**

In June 2012, the Security Intelligence Review Committee (SIRC or the Committee) was given responsibility for certifying the Canadian Security Intelligence Service (CSIS or the Service) Director's Annual Report. Accordingly, pursuant to section 38(2) of the *Canadian Security Intelligence Service Act (CSIS Act)*, SIRC is now required to submit to you, the Minister of Public Safety, a Certificate stating the extent to which it is satisfied with the CSIS Director's Report; whether the operational activities described in the Director's Report contravened the *Act* or Ministerial Directives; and whether the activities involved any unreasonable or unnecessary use of the Service's powers.

These statements provide you, Minister, with an important assessment of the legality, reasonableness and necessity of the Service's operational activities. In SIRC's view, these statements are particularly significant given that, for the past decade, the Director's Report has provided a comprehensive overview of CSIS operations and, therefore, provided you with extremely valuable information. At the same time, a report of this type presents certain challenges in terms of certification as it means that SIRC must certify a high-level description of a broad range of CSIS's activities for the fiscal year.

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To fulfill this responsibility, SIRC relies on a carefully designed and rigorous research methodology. SIRC conducted an extensive review of CSIS information holdings, ensured that each statement in the Director's Report was well-supported and that the Director's Report was representative of CSIS activities during the period under review. In addition, SIRC drew on its existing review activities – all of which involve a consideration of the legality, reasonableness and necessity of the Service's activities - to support the certification process. Of note, this is the first Certificate that benefitted from being fully integrated into SIRC's corporate planning. This integration provided the opportunity for SIRC to dedicate additional resources to the certification process and to further refine its methodology. As a result, SIRC believes that it has an even stronger foundation on which to base the statements contained in this Certificate.

Although SIRC did find two areas – foreign operations and s. 16 investigations – that it believes should have been described in greater detail, **overall, SIRC was satisfied with the Director's Report.** In addition, **SIRC is of the opinion that the activities described in the Director's Report and those assessed as part of SIRC's review sample complied with the Act and Ministerial Directives and did not constitute an unreasonable or unnecessary exercise of the Service's powers.** What follows is intended to provide you with additional information on the conclusions and issues contained in this Certificate.

SATISFACTION WITH THE DIRECTOR'S REPORT

In SIRC's view, the purpose of the Director's Report, submitted pursuant to section 6(4) of the *CSIS Act*, is to provide you with information that assists you in exercising Ministerial responsibility for CSIS. Accordingly, SIRC based its satisfaction on the extent to which the Director's Report fulfilled that function.

To make this assessment, SIRC used three criteria. First, SIRC examined whether the Report met the Ministerial reporting requirements set out in the 2008 Ministerial Directives on Operations and the 2012-2013 Ministerial Directives on Intelligence Priorities. Second, SIRC assessed whether the Report was factually accurate. It did so by reviewing the statements in the Report against CSIS information holdings, submitting questions, as well as requesting additional documentation and briefings on specific areas of CSIS activities. SIRC also examined these statements in light of its ongoing review activities, which provide tremendous insight into CSIS operations. Third, SIRC assessed whether the Report provided an accurate representation of CSIS activities. SIRC submitted requests for statistics and information on CSIS operational activities, including targeting, human source operations, warrant applications, foreign and domestic liaison, technical and operational support, foreign operations and security screening. The responses enabled SIRC to construct a comprehensive picture of Service activities.

Overall, SIRC was satisfied with the Director's Report. The Committee found that it fulfilled Ministerial reporting requirements and was factually accurate. With respect to whether the Report provided you with an

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accurate representation of CSIS activities, SIRC found two areas – foreign operations and s. 16 investigations – that should have been described in greater detail. As you may be aware, SIRC highlighted this same concern to your predecessor in last year's Certificate.

Foreign Operations

Given Service's overseas activities, SIRC believes that the Director's Report should have provided a more comprehensive and meaningful description of the Service's activities in this area.

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S. 16 Investigations

As you are well aware, there has been widespread media reporting and public scrutiny of Canada's foreign intelligence collection. SIRC reviews the Service's foreign intelligence activities on a consistent basis, and as a result, has considerable knowledge of the activities it undertakes pursuant to s. 16 of the *CSIS Act*. On the basis of this knowledge, SIRC found that the Director's Report did not provide you with enough information on the Service's activities with respect to s. 16 investigations.

CSIS's activities are outlined in three distinct sections within the *CSIS Act*: s. 12 permits the investigation of threats to the security of Canada, ss. 13-15 authorize the provision of security assessment and advice in other areas, and s. 16 establishes a mechanism for the Service to assist the Ministers of National Defence or Foreign Affairs in the collection of foreign intelligence. Each of these sections of the *Act* provides the Service with a distinct legal mandate and establishes the thresholds that must be met before the Service may act. SIRC noted that, whereas the Director's Report described the Service's activities pursuant to s. 12 and ss. 13-15 in significant detail, it provided only minimal information with respect to the Service's activities pursuant to s. 16.

SIRC recognizes that the Service's foreign intelligence activities are much more than both investigations into threats to the security of Canada or security assessments. Nevertheless, they remain an important part of CSIS activities, and for this reason, SIRC believes they warrant a more detailed discussion.

COMPLIANCE WITH THE CSIS ACT AND MINISTERIAL DIRECTIVES AND EXERCISE OF SERVICES POWER

In addition to requiring SIRC to state its satisfaction with the Director's Report, s. 38(2) of the *CSIS Act* requires SIRC to state whether, in its opinion, the operational activities described in the Director's Report contravened the *Act* or Ministerial Directives and whether the activities involved any unreasonable or unnecessary use of the Service's powers. To make this assessment, SIRC conducted an extensive review of the Government's direction to CSIS. This review included an examination of your Ministerial Directives on operations and intelligence priorities, as well as all s. 16 taskings provided to CSIS. SIRC also reviewed the Service's internal governance framework to determine whether it supports compliance with the *CSIS Act*

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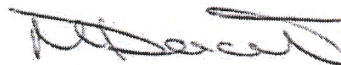
SIRC concluded that the Service obtained the necessary internal approvals, conformed to any conditions imposed by the Federal Court and collected only the information necessary to advance its investigation into threat-related activity.

Finally, although not an issue of non-compliance, SIRC did identify one other matter that it will be following closely in the coming year. While reviewing the sample of core CSIS activities, SIRC conducted an extensive review of the Service's internal governance structure. The cornerstone of this structure is the Service's suite of operational policies, which provide employees with direction on what they should be doing, how they should be doing it and how decisions should be made. In this respect, as the CSIS Assistant Director Policy and Strategic Partnership (ADP) observed, they are a critical tool that guides the Service's work and ensures that it remains a highly effective and efficient organization. More importantly, from SIRC's perspective, these policies are also one of the primary tools that the Service uses to ensure that its activities are in compliance with the *Act* and Ministerial Direction.

SIRC believes that the Service's policy structure has served its employees well, providing important and meaningful guidance as they make complex decisions. As you may be aware, the Service is in the midst of making fundamental changes to its policy structure. Whereas the previous suite consisted of a large number of individual policies designed to provide direction for very specific activities, the new structure will be streamlining Service policy to encompass only the principles that underlay all CSIS operations. Although the Service intends to continue to provide more specific direction to its employees, this direction will be recorded in various procedures documents that will be held within CSIS branches and units. As this change has the potential to affect all CSIS operations, in the coming year, SIRC will be examining the new policy structure to better understand the new policy requirements and to determine whether this direction will support compliance with the *CSIS Act* and Ministerial Directives.

In this certification and in its reviews, SIRC has identified important issues that it believes warrant attention and, in some cases, corrective action by the Service. Nevertheless, the sum total of the activities reviewed by SIRC suggests that, on the whole, the Service's day-to-day activities are being undertaken in a manner that is compliant with relevant authorities. I would be pleased to have the opportunity to discuss further the content of this Certificate, or any issue that SIRC has brought to your attention.

Yours sincerely,



205 The Honourable Deborah Grey, P.C., O.C.
Interim Chair

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