

Security Intelligence
Review Committee



Comité de surveillance des activités
de renseignement de sécurité

Office of the Chairman

Bureau du président

November 2nd, 2017

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Re: Oversight of intelligence sharing between your government and foreign governments

Dear Sirs and Madam:

Thank you for your letter of September 13th and for the opportunity to respond to your questions which had also been addressed to my colleague, the Hon. Jean-Pierre Plouffe, C.D., Commissioner of the Communications Security Establishment (CSE).

I will begin by laying out my role as the Chair of the Security Intelligence Review Committee (SIRC). SIRC is an independent, external review body which reports to the Parliament of Canada on the operations of the Canadian Security Intelligence Service (CSIS). CSIS is Canada's security intelligence agency, responsible for investigating activities suspected of constituting threats to the security of Canada, and to reporting on these to the Government of Canada.

SIRC works to ensure that CSIS uses its powers legally and appropriately, in order to protect Canadians' rights and freedoms. SIRC provides an annual report for Parliament—which is tabled by the Minister of Public Safety, who is responsible to Parliament for CSIS. These are available on SIRC's website: <http://www.sirc-csars.gc.ca>.

However, as you are no doubt aware, the system of accountability for national security in Canada is in the midst of substantial change. In particular, there is a draft Bill before Parliament that, if

passed unchanged, will create a new review body—the National Security and Intelligence Review Agency (NSIRA)—that would replace SIRC and the Office of the CSE Commissioner (OCSEC), and would be responsible for reviewing the security and intelligence activities of all Government departments and agencies.

Below you will find answers to your specific questions.

Q1: *Is the intelligence agency required to proactively inform you about intelligence sharing arrangements they are intending, or would prefer to make with other intelligence agencies or governments?*

According to section 17 of the *CSIS Act*, SIRC must be provided with a copy of any written arrangement that CSIS enters “with the government of a foreign state or an institution thereof or an international organization of states or an institution thereof.”

Q2: *Do you have the power to access in full all relevant information about the intelligence sharing activities of your government?*

As set out in the *CSIS Act*, SIRC has full access to any information under the control of CSIS. As a result, SIRC may examine all of CSIS’s files and all of its activities—no matter how highly classified that information may be. The sole exception is Cabinet confidences (i.e., written and oral communications that contribute to the collective decision-making of Ministers).

Q3: *Do you have sufficient power and resources to review decisions to share intelligence and/or undertake independent investigations concerning the intelligence sharing activities of your government, including with respect to the substantive scope and proportionality of such sharing?*

SIRC has adequate resources to review CSIS’s intelligence sharing practices and does so on an ongoing basis. SIRC’s reviews of information sharing assess whether CSIS’s information sharing practices are compliant with the laws of Canada, including the *CSIS Act*, the *Privacy Act*, as well as the *Security of Canada Information Sharing Act (SCISA)*. SIRC also assesses those practices for compliance with the full range of applicable Ministerial Directions.

For your information, in addition to the review, “Ministerial Direction and CSIS’s Directives on Intelligence Sharing,” noted in your correspondence, SIRC recently conducted its first review of *SCISA*. I would also point you to SIRC’s “Review of CSIS’s Relationship with a Foreign Partner” in SIRC’s 2011-2012 Annual Report. Summaries of these reviews are available in the annual reports on SIRC’s website. You may also wish to consult SIRC’s 2010 review, “CSIS’s Role in Interviewing Afghan Detainees,” the redacted version of which is on the website.

Q4. Do you cooperate with any other oversight bodies, domestic or foreign, to oversee the intelligence sharing activities of your government? Are you able to share sufficient information with these other oversight bodies to provide adequate oversight and review?

The *CSIS Act* does not provide SIRC the explicit authority to cooperate with other review or oversight bodies, either domestically or internationally. As indicated in the letter by the CSE Commissioner, internationally, SIRC has participated in discussions with OCSEC and other review and oversight bodies from the “Five Eyes” community. SIRC is optimistic that these discussions will contribute to greater awareness among the “Five Eyes” review and oversight community on issues of common concern, and may lead to forms of cooperation, as appropriate, in the future.

Q5. What, if anything, do you see as the primary current impediment to your capacity to substantively review intelligence-sharing activities of the agencies you oversee?

SIRC has identified the lack of authority to share specific information with its domestic counterparts as an impediment to its capacity to review the activities of CSIS. This promises to be resolved with the creation of NSIRA as proposed in Bill C-59.

Q6. To what extent is the Minister of National Defence involved in the negotiation, approval or internalization of intelligence-sharing agreements with foreign agencies or governments?

This is a question better suited for the Minister of National Defence’s office.

Please do not hesitate to contact me or my office should you wish further clarification.

Sincerely,



PIERRE BLAIS, P.C.
Chair

c.c.: Hon. Jean-Pierre Plouffe, C.D.,
Commissioner of CSE