

TOP SECRET

**File No.: 2800-148
(TD R492)**

**CSIS'S ACTIVITIES INVOLVING
FUNDAMENTAL SOCIETAL INSTITUTIONS**

(SIRC STUDY 2009-03)

**Security Intelligence Review Committee
February 17, 2010**

ATIP version

SEP 09 2019

dated: _____

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1 INTRODUCTION

There is no safe haven in Canada for a CSIS target. However, the need to exercise special care when undertaking intelligence investigations that impact – or even appear to impact – Canadian fundamental institutions, is a principle that has been embedded in CSIS's *modus operandi* since its creation. These fundamental institutions – also called sensitive sectors – include those in the academic, political, religious, media and trade union field, and were recognized as constituting a unique environment for the collection of intelligence by the McDonald Commission. The Commission wrote that one of the fundamental principles underscoring the foundation of CSIS operations was the need to weigh various investigative techniques against possible damage to civil liberties or to these valuable social institutions. This foundation was then reinforced by several Solicitors General in the early years of the Service, culminating with the 1989 Ministerial Direction which stated that CSIS had to be "particularly careful concerning the potential impact of its investigations on the civil liberties of individuals or the activities of the most sensitive institutions of our society."¹

From its early days onward, CSIS operational policy has consistently carried this central concern forward, and a distinct set of policies have been developed and maintained so as to properly regulate investigative activity in these sensitive sectors.²

This study examines CSIS investigative activity in sensitive sectors, specifically religious institutions.

CSIS has also developed a new Outreach program to serve as a link and to help negotiate the sensitive relationship

Indeed, this review recognizes that the task of investigating threats to national security without interfering with the functioning of fundamental institutions has become quite complex in recent years; moreover, the launch of a concerted Service Outreach

¹ Solicitor General of Canada, "Impact on Civil Liberties," Ministerial Direction, October 30, 1989.

² 2008 policy maintained that "[w]hile guided by the principle that there are no sanctuaries from authorized investigations, special care must be taken in the management and control of investigations which affect or appear to affect sensitive sectors." Ops-201-1 - Sensitive Sectors, 2.1

campaign
that complexity.

carries with it the potential to augment

Our conclusion notes that, due to a broader trend throughout the Service favouring the devolution of authority,

Although sensitive sectors continue to constitute a unique environment for the Service, SIRC is concerned that these changes may disrupt what was already an efficient and effective system regarding investigations which may take place within sensitive sectors.

2 METHODOLOGY AND SCOPE

This review examines how CSIS conducts investigations involving, or associated with, fundamental societal institutions, specifically those in the religious sector. Its purpose is to explore how CSIS carries out its investigations without hindering the proper functioning of fundamental institutions or encroaching on individual liberties. In order to do so, IRC chose to examine in detail the Service's activities which came into contact with the

In the course of its review, SIRC examined the full range of documentation available at the Service concerning the

this included an examination of operational reporting, briefing notes, and senior level memoranda and decision-making documentation. SIRC also examined headquarters (HQ) and Toronto Region (TR) material related to the Service's Outreach program, though we focused specifically upon the program's component dealing with In addition, SIRC attended two briefings at TR – meeting with all levels of staff – to discuss both the Outreach program and those investigations

The review period extended from January 1, 2006 to August 31, 2008, although SIRC looked at information that fell outside this scope to fully explore certain issues.

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In the 1950s and 1960s, during the era of the Cold War, the threat to national security was thought to reside in trade unions and on university campuses, both feared as "havens" for left-wing radicals, outspoken intellectuals, and communist sympathizers. What those institutions were then, religious institutions are today: Since 9/11, as the threat to national security has shifted to extremists in the Islamic world, sympathizers fueling ideas and philosophies which could contribute to threat-related behaviour have begun to congregate and inform each other in places of worship. As such, SIRC thought it instructive to examine religious institutions as the quintessential 21st century sensitive sector.

There are no safe havens or restrictions to the Service carrying out its mandated operational activities.

4 CSIS ACTIVITIES INVOLVING RELIGIOUS INSTITUTIONS

Operational Policy in 2006 (the beginning of this study's review period) maintained that "in the conduct of operations involving, or associated with, [fundamental] institutions, sensitivities may surface regarding the propriety of the investigation or the disquieting effect investigations may have on the institution or on the civil liberties of individuals." Should they surface, "senior level authorization appropriate to the nature of the investigation and its relationship to the institution involved is required." In particular, "if any situation involving the Service and a fundamental institution may become controversial, the appropriate Regional and Headquarters Director General (DG) must be advised."¹⁸

As such, CSIS treats fundamental institutions
does "neutral" venues,

a little differently than it

¹⁸ OPS-202-1.2, OPS-202-3.1.1 and OPS-202-4.2.

In the course of its review, SIRC saw evidence that CSIS was collecting and retaining information concerning activities and events taking place However, this information was related only to CSIS targets' activities that were of interest to the Service,

SIRC is aware that this constitutes a difficult task for CSIS.

SIRC finds that sensitive sector policy and its implementation in the review period was strong and prevented the inappropriate investigation of religious institutions. Given the aforementioned, it remains

incumbent on the Service to maintain its vigilance with regard to investigations which have the potential to impact on a sensitive sector, and to ensure the maintenance of its fundamental principles concerning Canadian rights and institutions.

6 OUTREACH

Given the focus on Toronto Region for this review, SIRC also elected to examine the Service's Outreach program

This program falls squarely in line with other government initiatives; In April 2004, the Canadian government tabled its first comprehensive statement on Canada's national security policy, which introduced new measures to "reach out to communities in Canada that may feel caught in the 'front lines' of the struggle against terrorism."³⁵

In the summer of 2005, CSIS launched a new outreach program, a "strategic and coherent corporate function" designed to communicate more effectively to Canadians and to explain better its role and mandate to decision makers, average citizens, media, academics, security stakeholders and cultural communities.³⁶ In doing so, CSIS hoped to achieve two key objectives: to improve its public image and citizens' understanding of its role,

CSIS focused particularly on engaging those ethnic groups who felt that the enhanced security measures taken since 9/11 had violated their civil liberties or harmed their reputations.³⁷

³⁵ *Securing an Open Society: Canada's National Security Policy* (April 2004). The creation of the Cross-Cultural Roundtable on Security, for example, was designed to regroup members of ethno-cultural and religious communities from across the country to engage in long-term dialogue "to improve understanding on how to manage security interests in a diverse society" and "provide advice to promote the protection of civil order, mutual respect and common understanding."

More recently, this outreach has become a key pillar of the Canadian government's counter-radicalization strategy. "Ottawa using intervention to extinguish extremism," *National Post*, January 31, 2009.

³⁶ CSIS grouped its outreach program into six categories: corporate, cultural, media, community, parliamentary and academic.

There has been some debate within CSIS as to whether a security intelligence agency should or should not employ community outreach. Some have questioned whether outreach is an efficient use of CSIS resources or an appropriate role for an intelligence agency; however, this position does not seem to represent mainstream opinion within the Service.³⁸ In its briefing to SIRC, the _____ explained that CSIS had to continue to do outreach and maintain open channels of communications with ethnic communities

Although long-term results remain to be seen, the _____ believes that outreach has already produced positive results with respect to community interest, _____ On the other hand, some feel that despite the Service's investment, few tangible results exist as of yet.

In light of TR's demographic reality,⁴⁰ the Region has in effect spearheaded the Service's outreach efforts. Its main methods of engagement include attending meetings of community advisory committees representing various ethno-cultural groups, as well as making public presentations on CSIS's mandate and role at various functions such as information meetings and community events. The Region's goal is to develop relationships with ethnic communities by demystifying CSIS's role and listening to concerns, while at the same time emphasizing that all Canadian citizens have a duty to inform authorities of threats to the security of Canada. The Region has also directed its efforts to target specific problems:

Four years after the creation of the outreach program, there is renewed debate as to its ultimate usefulness and efficacy,

³⁸ In a 2009 interview, the former CSIS Deputy Director of Operations said he could not believe that most Canadians would want its security intelligence agency going out into communities to change behavior, stating that "they would have no objection to social workers and maybe other government agencies having programs [outreach] like that, but an intelligence service?" "Ottawa using intervention to extinguish extremism", *National Post*, January 31, 2009.

⁴⁰ The Greater Toronto Area receives roughly 50% of Canada's immigrating population, while Southern Ontario – which is within TR's territory – becomes home to an additional 20-25% of those new immigrants

The range of expectations is also expressed in a CSIS Intelligence Assessment on Counter-Radicalization produced during the review period; in a section describing Outreach as a counter-radicalization strategy, the report notes that the meetings present “an opportunity to explain the CSIS mandate and enlist the public’s assistance in identifying security risks to Canada,” and that “the public presentation of the Service’s position on radicalization could contribute to counter-radicalization measures in these communities.”

However, the report then notes that some audiences “seem keen to collaborate in identifying areas where the government and communities can work together to prevent radicalization,” suggesting a model of collaboration between the two. Moreover, the report notes: “It is hoped that these sessions will encourage community and religious leaders to take steps to monitor and counter the radicalization process in their communities.” This, in other words, belies the expectations of CSIS that their Outreach program will not only inform or smooth out relations, but will enlist the community as active allies in the Service’s work.

With such a range of expectations, and an outline which significantly departs from the stated goals of the Outreach program as defined above, the report’s assertion that Outreach efforts have met with “mixed success,” leaves the reader wondering how success was defined.⁴²

To a large extent, CSIS does not need to “re-invent the wheel” to focus their direction. For outreach to be effective in the long-term, CSIS may be able to draw lessons from the community policing model; although security intelligence and police work operate under different thresholds, there are still many lessons to be learned from a community policing approach that emphasizes an interactive, collaborative and accountable relationship between communities and law enforcement.⁴³ This model is based on the belief that police should act as a buffer between citizens and their governments – helping to manage and protect civil communities rather than simply acting on behalf of governmental authorities – and therefore play a vital role in negotiating relationships between suspect communities, governments and the broader society. Clearly, the

⁴² CSIS IA 2007-8/12 (Counter-Radicalization and De-Radicalization in the West), p.7

⁴³ For example, in return for their consent and collaboration, police will encourage community involvement in local policing policy, will be responsive to local policing priorities and involve the community in various local policing activities. Christopher Murphy, “Securitizing Community Policing: Towards a Canadian Public Policing Model” *The Canadian Review of Policing Research*, Vol. 1 (2005).

success of the operation requires the cooperation and consent of the community being 'policed.' In fact, the shift toward "security policing" post 9/11 has revealed a pitfall when the relationship between police and communities is used only for the benefit of a national security agenda. Studies have found that "the strategic and manipulative use of community capital" for national security reasons can easily undermine the fragile trust-based social relationships between local police and communities.⁴⁴

Moreover, existing models suggest that continued and sustainable community engagement requires a mutually beneficial relationship. Once community leaders and members feel they no longer have anything to gain from maintaining a positive working relationship with CSIS, in other words, the relationship would almost certainly deteriorate. Therefore, although increased interaction with ethnic communities clearly holds operational benefits for the Service, outreach does have its complexities and limitations.

In the long term, therefore, if CSIS wishes to sustain its outreach program, it must more clearly establish benchmarks against which the program's success can be measured. Moreover, there must be a Service-wide understanding of what the program can and cannot achieve. Finally, successful and continued community engagement requires a mutually beneficial relationship, one which appreciates not only CSIS's goals, but which takes into consideration what the communities involved have gained, or expect to gain, from their involvement.

Hence, CSIS is at a crossroads and should make a choice: if it wishes to continue with its outreach program – and there is every indication that doing so would bring benefits to the Service – it may need to move beyond simply informing the community about what it does. Instead, CSIS will have to offer something more concrete to the community to sustain its interest and engagement. Drawing upon past Service experiences as well as open literature on community policing offers many possibilities. These include collaborative forums for communication and accountability, acting as a mediator between the larger Canadian government and the community, and promoting the enlistment of religious and community leaders so as to provide guidance to radicalized youth,⁴⁵ all of which provide mutually beneficial interactions.

⁴⁴ Christopher Murphy, "Securitizing Community Policing: Towards a Canadian Public Policing Model" *The Canadian Review of Policing Research*, Vol. 1 (2005).

⁴⁵ i.e. building networks of religious personnel to be called in when community members fear the radicalization of a youth or other family member

7 CONCLUSION

This study has reviewed the Service's policy concerning investigations which may affect Canadian fundamental institutions. Using the [redacted] as a case study, the review catalogued the Service's handling of an investigation [redacted]

Overall, the review found that the Service has consistently approached religious institutions with the care and sensitivity which those environments warrant, and on which some of the fundamental principles of CSIS operations rest. However, the study suggests that at the highest levels of decision-making regarding [redacted] the recent downward delegation of authority carries the potential to erode the value of what was a robust policy, one appropriate to the impact which those [redacted] operations can have.

In addition, the study examined the Service's outreach program,

While this program is well-conceived and continues to have upward potential, the study found that in its current form, it has peaked.

[redacted] this study presents an opportunity for reflection and assessment of both recent shifts in Service policy regarding investigations involving those institutions,

SUMMARY OF FINDINGS

- SIRC finds that sensitive sector policy and its implementation in the review period was strong and prevented the inappropriate investigation of religious institutions.
- If CSIS wishes to sustain its outreach program, it must more clearly establish benchmarks against which the program's success can be measured. Moreover, there must be a Service-wide understanding of what the program can and cannot achieve. Finally, successful and continued community engagement requires a mutually beneficial relationship, one which appreciates not only CSIS's goals, but which takes into consideration what the communities involved have gained, or expect to gain, from their involvement.

RECOMMENDATIONS

- The Committee is concerned about the delegation of authority related to fundamental institutions. Therefore, SIRC recommends that CSIS follow up within one year to ensure that the delegation of authority has retained the challenge and balancing functions which had been embedded in policy