

Communications Security
Establishment Commissioner

The Honourable Robert Décary, Q.C.



Commissaire du Centre de la
sécurité des télécommunications

L'honorable Robert Décary, c.r.

TOP SECRET // SI // CEO

Our file # 2200-78

March 25, 2013

The Honourable Peter MacKay, P.C., M.P.
Minister of National Defence
101 Colonel By Drive
Ottawa, Ontario
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Dear Mr. MacKay:

The purpose of this letter is to provide you with the results of my annual review of the Communications Security Establishment Canada's (CSEC) Privacy Incident File (PIF) and Minor Procedural Errors Report (MPER) for calendar year 2012. This review was undertaken under my general authority as articulated in Part V.1, paragraph 273.63(2)(a) of the *National Defence Act (NDA)*.

According to CSEC, a privacy incident occurs when the privacy of a Canadian is put at risk in a manner that runs counter to, or is not provided for in, its operational policies. CSEC policy requires CSEC signals intelligence (SIGINT) and information technology (IT) security employees to report and document privacy incidents in order to demonstrate compliance with legal and ministerial requirements, with CSEC policies, and to prevent further incidents. The PIF represents a voluntary CSEC initiative, begun in 2007, to record events that CSEC defines as "privacy incidents". In March 2012, as part of my annual review of the PIF, I was informed by CSEC of the creation of the MPER. It contains operational errors that occurred in connection with privacy information but that did not result in privacy information leaving the control of CSEC, or privacy information being exposed to external recipients who ought not to have received that information. The PIF and the MPER are made available for the Commissioner's review as a proactive means to demonstrate CSEC's commitment to transparency and to measures to protect the privacy of Canadians.

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Based upon my review of the PIF and the MPER records as well as an independent verification by my office of specific reports in [REDACTED] — CSEC's database of foreign signals intelligence reports — I am satisfied that CSEC took appropriate corrective actions in response to the privacy incidents it recorded during 2012. My review did not reveal any systemic deficiencies or issues that require follow-on review. I am not making any recommendations.

The objectives of the review of the PIF and the MPER were to: acquire knowledge of the incidents and procedural errors and subsequent actions to correct the incidents or mitigate the consequences by CSEC; and inform development of my work plan by determining what privacy incidents, procedural errors and related activities, if any, may raise issues about compliance or the protection of the privacy of Canadians, and therefore should be subject to follow-on review. In addition, review of the PIF and the MPER assists me in evaluating CSEC's compliance validation framework and activities.

I did not have any questions regarding the [REDACTED] errors found in the MPER for 2012. [REDACTED] entries in the MPER were errors about information that did not leave the control of CSEC and [REDACTED] entries concerned privacy information exposed to external recipients not resulting in a privacy incident. I agreed with CSEC's assessment that these occurrences were "minor" in nature and not "privacy incidents".

In 2012, CSEC identified and recorded in its PIF [REDACTED] privacy incidents. Of these, the majority of the incidents, [REDACTED] involved the inadvertent sharing or inclusion, in a CSEC or second party report, of Canadian identity information by CSEC or by one of its second party partners in the U.S., U.K., Australia or New Zealand. [REDACTED] incidents concerned CSEC or a second party partner unknowingly targeting a Canadian or a person in Canada. [REDACTED] incidents concerned CSEC receiving or forwarding unsuppressed Canadian identity information from a domestic client to a second party partner. [REDACTED] involved a Government of Canada (GC) department including unsuppressed Canadian identity information in two feedback submissions to CSEC. [REDACTED] other [REDACTED] involved a CSEC employee searching for a Canadian selector in a CSEC database. Of the [REDACTED] privacy incidents, [REDACTED] involved CSEC's second party partners and [REDACTED] incidents involved other GC departments. [REDACTED] incidents involved multiple violations of privacy over several years, for which CSEC provided a retroactive blanket naming exemption in order not to draw unwarranted attention to the Canadian. CSEC provided satisfactory answers to all of my questions about the privacy incidents. CSEC did not become aware of any adverse impact on the Canadian subjects of the privacy incidents.

I am particularly pleased with certain follow-on activities taken by CSEC to prevent future privacy incidents similar to those identified above. For example, CSEC's Operational Policy section is conducting a monthly review of the PIF entries in order to ensure that all required follow-on activities have been completed or are being pursued. As well, in order to remind its employees of the requirement to report an incident immediately using a specific web form, CSEC's SIGINT Programs, Oversight and Compliance section is developing a communiqué describing the benefits of the web forms and reminding employees to use them for inadvertent targeting and naming incidents. [REDACTED] IRRELEVANT

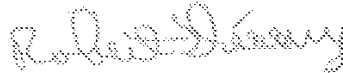
IRRELEVANT

I intend to continue to conduct an annual review of CSEC's PIF and MPER.

CSEC officials were provided an opportunity to review and comment on the results of the review, for factual accuracy, prior to finalizing this letter.

If you have any questions or comments, I will be pleased to discuss them with you at your convenience.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "Robert Décary".

Robert Décary

c.c. Mr. John Forster, Chief, CSEC