

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/COMINT/CEO

July 4, 2011

The Honourable Peter G. MacKay, PC, MP
Minister of National Defence
101 Colonel By Drive
Ottawa, Ontario
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Dear Mr. MacKay:

In November 2007, the Chief of the Communications Security Establishment Canada (CSEC) wrote to the Commissioner to inform him that CSEC had created a central file describing CSEC operational incidents that did or could impact on the privacy of Canadians. The Chief indicated that CSEC's privacy incident file (PIF) would be made available for review "as a proactive means to demonstrate [CSEC's] commitment to protecting privacy, helping ensure transparency, and enhancing public confidence in CSE[C]". The purpose of this letter is to provide you with the results of my review of CSEC's PIF. 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)*.

My reviews of CSEC activities generally include an examination of any privacy incidents relating to the subject of review. This first review of the entire CSEC PIF focused on those incidents not examined in detail in the course of my other current reviews. I examined all signals intelligence (SIGINT) and information technology security (IT Security) privacy incidents recorded by CSEC in its PIF in calendar year 2010, and the associated actions taken by CSEC to correct the incidents. The objectives of the review were to: acquire knowledge of the incidents and corrective actions; and inform development of my work plan, by determining what privacy incidents and related activities, if any, may raise issues about compliance with the law or the protection of the privacy of Canadians, and therefore should be subject to follow-on review. In addition, review of the PIF assists me in evaluating CSEC's management control framework.

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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 SIGINT and IT Security employees to report and document privacy incidents in order to demonstrate compliance with CSEC policies and legal requirements, and to prevent further incidents.

During the period under review, CSEC identified and recorded in its PIF [redacted] privacy incidents: [redacted] incidents involved the inadvertent inclusion by CSEC or by one of its second party partners in the United States, United Kingdom, Australia or New Zealand of Canadian identity information in a CSEC or second party report; [redacted] incidents concerned CSEC or a second party partner unknowingly targeting a Canadian or a person in Canada (one of these was also included in the previous grouping of [redacted]); CSEC mistakenly sent Canadian identity information to the wrong recipient in [redacted] cases; [redacted] incidents involved the inadvertent [redacted]

Based upon the information reviewed, I am satisfied that CSEC took appropriate corrective actions in a timely manner in response to the privacy incidents it recorded during 2010. My review did not reveal any systemic deficiencies or issues that require follow-on review. I am pleased to note, though, that CSEC will include in a revision to its policy, guidance respecting how to correct, without attracting undue attention, privacy incidents relating to the inadvertent naming of a Canadian in reports in specific circumstances.

My review did not result in any recommendations. However, my officials identified and communicated to CSEC suggestions to make the PIF record complete and consistent, in particular concerning the assessment of potential consequences flowing from the incident, and verifying whether and when corrective actions had been taken.

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

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

Yours sincerely,


Robert Décarie

c.c. Mr. John Adams, Chief, CSEC
Mr. Stephen Rigby, National Security Advisor to the Prime Minister,
Privy Council Office
Mr. Robert Fonberg, Deputy Minister, National Defence