



Writing with privacy in mind

A briefing to SMF

DRAFT until presented

SPOC

March 2013

Canada



Centre de la sécurité
des télécommunications

Communications Security
Establishment

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**The overall classification of this
document is TS//SI//CEO**

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Purpose of this presentation

- To remind that obligations for privacy protection don't just apply to reports and raw data:
 - Presentations, documents, examples, demos, etc.
- To provide principles, tips and guidance for how to effectively communicate while protecting privacy
- To advise on other important considerations when writing in a CSE context:
 - ATIP, Legal Disclosures, etc.
- To illustrate the above with concrete examples



There are just a few Authorities...

- Canadian Charter of Rights and Freedoms
- Legislation: *National Defence Act, Criminal Code, Security of Information Act, Privacy Act, Access to Information Act, Canada Evidence Act, Privacy Act, Library and Archives of Canada Act, CSIS Act, Financial Administration Act*
- All Ministerial Instruments: MAs and MDs, including Intelligence Priorities, Accountability and Privacy
- Policy Instruments:
 - OPS-1, OPS-1-1, OPS-1-7, OPS-1-9, OPS-1-10, OPS-1-11, OPS-1-13, OPS-3-1, OPS-4-1, OPS-4-3, OPS-5-3, proposed OPS-6
 - CSOI-1 Requirements/Priorities, CSOI-2 Event and Crisis Response Procedures, CSOI-3 Access & Facilitation, CSOI-4 Analysis & Production, CSOI-5 Security/Control of SIGINT Information, CSOI-6 Liaison & Cooperation, CSOI-7 Canadian Forces
 - SPIs: SIGINT Program Instructions
- Guidance from DLS and legal opinions
- Management Direction

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And a few other factors to consider...

Part 1

- Access to Information requests:

As of last week: 100 ongoing requests, 70 ATI requests, 15 ATI consultation requests, 9 privacy requests and 6 active parliamentary inquiries

- "A list of the number of times calls made from or to phone numbers with the area code 867 was monitored, and the dates and times these occurrences took place, dating back to January 1, 2011."
- "Request electronic copies of all documents, including emails, meeting minutes and briefing noted which relate to monitoring of environmental organizations by the Communications security Establishment Canada. Time period Jan. 1, 2013 to present (December 18, 2013)"
- "I am requesting all records that related to the directives and orders to have project Olympia target the Brazilian Ministry of Mines and Energy."

- Privacy Act requests

- "Requesting records including but not limited to emails, reports (including drafts), briefing notes, memos, sticky notes, media tracking and any other records mentioning or referring to myself, between June 1 and October, 2011." Note that ATIP has spoken to requester and clarified that the requester wants any information 'about CSEC spying on her'.

- Information Commissioner

- Privacy Commissioner

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And a few other factors to consider...

Part 2

- Media attention
 - *“CSEC’s collection of metadata show ability to ‘track everyone’” CBC*
 - *“Spy agency’s work with CSIS, RCMP fuels fears of privacy breaches” Globe & Mail*
- Visibility
 - Place in Government
 - “New Facility” or a “Taj Mahal”
 - Unauthorized disclosures
- External Review
 - CSE Commissioner: “...a small number of records suggested the possibility that some activities may have been directed at Canadians, contrary to the law. A number of CSEC records relating to these activities were unclear or incomplete. After in-depth and lengthy review, I was unable to reach a definitive conclusion about compliance or non-compliance with the law.”
- Disclosures
 - Legal and/or administrative proceedings e.g. BCCLA lawsuit, [REDACTED]



The Bottom Line

What you write and
how you write it has a lasting impact

(and your classification won't save you).



Privacy Principles

- Privacy
 - is everyone's responsibility
 - applies to all persons, not just Canadians and 5-Eyes
 - (Obviously target information sharing is okay when necessary)
 - applies to all documents and records, not just EPRs
 - Includes emails, tradecraft, tools, projects...anything and everything

In December 2013, the United Nations General Assembly adopted a consensus resolution on "The right to privacy in the digital age". This resolution underscores that the right to privacy is a human right, whether offline or online. While CSE treats Canadians differently from foreign persons, CSE recognizes that the issue of privacy in the digital age is an issue that crosses national borders. CSE applies strict/rigorous criteria in all its activities, and only acquires information in response to foreign intelligence priorities of the GC. CSE extensively documents the rationale for collection, applies sophisticated methods to select only relevant material, and abides by strict measures to protect the privacy of Canadians, and that of individuals who are not of foreign intelligence interest, whatever their nationality or location.

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A few “tricky” words and phrases

- OCSEC observation on clarity of language:
 - “the language contained within the records is inconsistent and sometimes imprecise...contradictory and ambiguous language”
 - Never
 - Related to/relating to
 - Associated with
- Conclusion:
 - all writing needs to be accurate and appropriate
 - consider the impact of each word in a worst case scenario, e.g. unauthorized disclosure
 - respect the privacy of the individuals concerned



Best Practices

- No CII.
- Apply the “media test”
 - Perception quickly becomes reality
 - CSE cannot defend, provide background or context, or explain any capability without violating the *Security of Information Act*
- Use group aliases not personal identifiers in presentations
- Classify documents “CSE Official Use Only”, not just Unclassified
- Embed a *Draft* watermark or header until document is approved
- Use fictitious names and countries in case studies
- Portion mark documents if appropriate

All CSE records are subject to *Access to Information* and *Privacy Act* requests



Fictitious Writing Samples:

Case Studies



Case Study: IP Profiling Activity

- Goal: Understand network context better
- Relevance: Target appears on IP address
- IP lookup for [REDACTED]
 - [REDACTED] (Quebec province)
 - City: Montreal
 - Country: Canada,
 - Operator: Bell Canada, Sympatico
- Questions for consideration:
 - Do other [REDACTED] targets have their [REDACTED] on this IP?
 - Can we do anything against this [REDACTED]?
 - What target discovery methods could be applied to the analysis of this IP?



Case Study: IP Profiling Activity

- Goal: Understand network context better, to determine foreign communications data pathways on the GII.
- Target communications were routed through Canadian IP
 - IP is an [REDACTED] between [REDACTED] in [REDACTED]
 - Two-end foreign, and both ends are of FI interest
 - IP profiling analysis could enable better access to communications
- Questions for consideration:
 - Are other targets appearing on this IP?
 - Will examining this IP's traffic enable access to more FI?
 - What target discovery methods could be applied to the analysis of this IP?

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Case Study: OPERATION [REDACTED]

Introductory Statement:

- The purpose of this file is to monitor and report on the capabilities, activities and intentions of individuals involved in [REDACTED]
[REDACTED]

Current hypothesis:

- [REDACTED]
- Additionally, HUMINT reporting from multiple sources reporting indicate that both [REDACTED]
[REDACTED] the potential threat to Canada and Canadians is of great concern.

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Case Study: OPERATION [REDACTED]

Introductory Statement:

- The purpose of this file is to monitor and report on [REDACTED]
[REDACTED]
The [REDACTED] poses a probable threat to the security of Canadian interests.

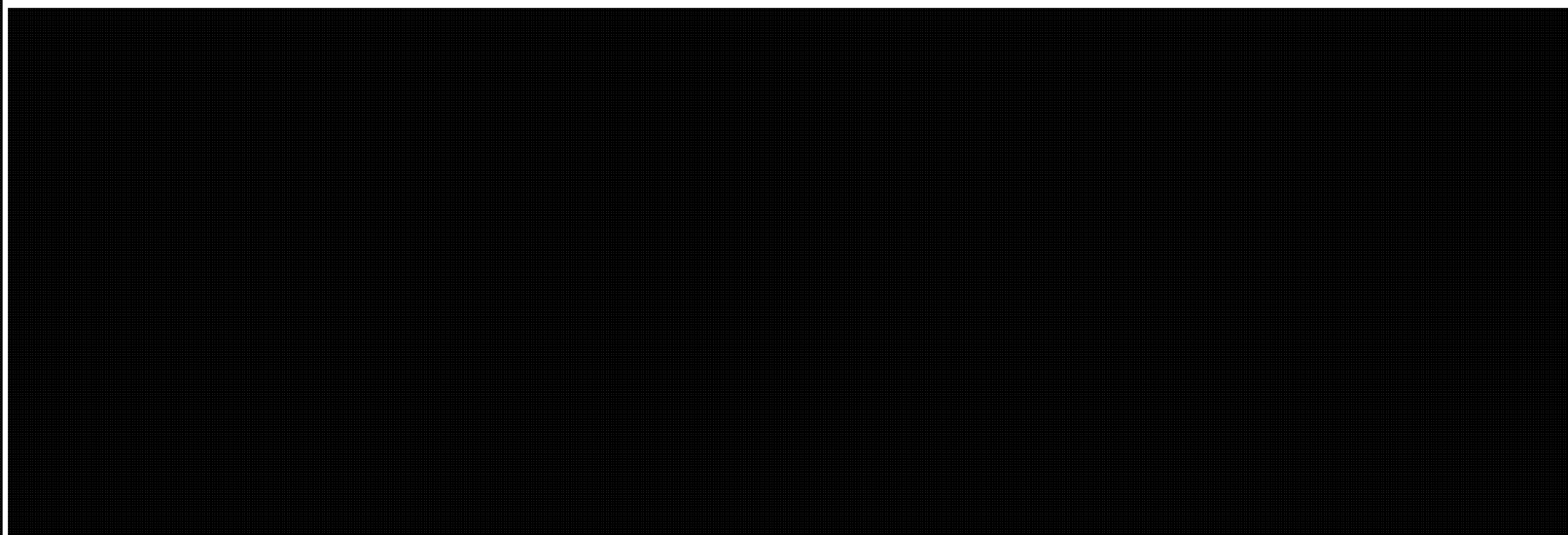
Current hypothesis:

- Entities and individuals associated with this operation are in
[REDACTED]
[REDACTED] may represent a threat to Canadian interests.



Case Study: E-mail exchange with CSIS

Hi A!



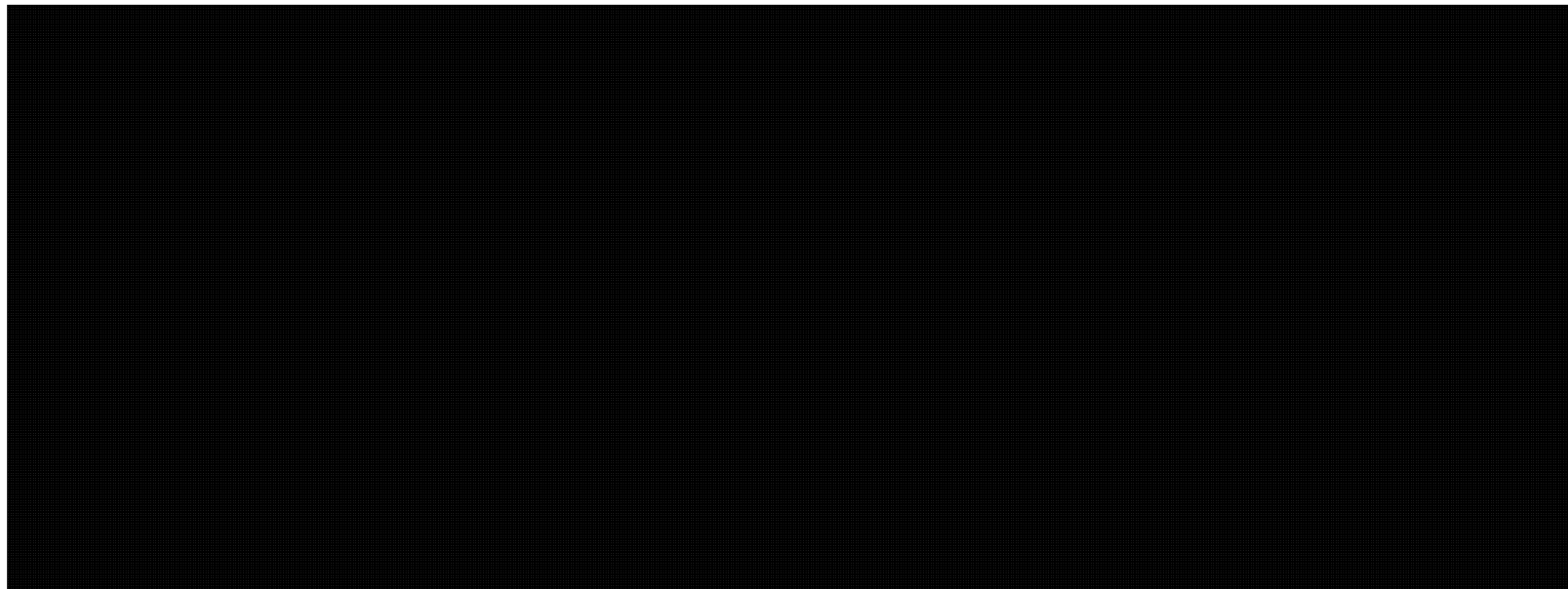
CSE Analyst
DGI Team

Canada



Case Study: E-mail exchange with CSIS

Hey A!



CSE Analyst
DGI Team

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Case Study: E-mail exchange with NSA

Hey Counterpart, [REDACTED]

[REDACTED]

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Case Study: E-mail exchange with NSA

Hey Counterpart,

[REDACTED]



**Write with privacy
in mind
and
practice good IM!**