

Minister
of National Defence



Ministre
de la Défense nationale

Ottawa, Canada K1A 0K2

AVR 30 2014
APR 30 2014

TOP SECRET//SI//CEO
CERRID #1333081

The Honourable Jean-Pierre Plouffe
Communications Security Establishment Commissioner
90 Sparks Street, Suite 730
P.O. Box 1984, Station B
Ottawa, Ontario
K1P 5B4

Dear Commissioner Plouffe:

I am writing to respond to former Commissioner Décary's 17 July 2013 report entitled *Review of CSE SIGINT Information Sharing with the Second Parties*.

I appreciate Commissioner Décary's decision to undertake this review.

I was pleased to note Commissioner Décary's observation that CSE has substantial controls and measures in place to help ensure that its information sharing with Second Party partners is lawful and protects the privacy of Canadians.

I also noted the report's observation that CSE conducts its activities in a manner that is consistent with the agreements it has with its Second Party partners to respect the privacy of the partners' citizens. I understand that it would be unreasonable to expect your office to provide the same level of assurance concerning the extent to which CSE's Second Party partners protect the privacy of Canadians. I have been advised, however, that CSE recently shared some Second Party policies with your office, upon receiving consent from the respective agencies. These policies describe how Second Parties, like CSE, have instituted measures to protect the privacy of other Five-Eyes nationals.

I have been advised by the Chief that CSE has accepted both of the report's recommendations. Beginning with this year's Annual Report, CSE will provide me with supplemental data. CSE has also undertaken to support me in the development of a new Ministerial Directive related Information Sharing with Second Parties.

For your convenience, I have attached CSE's management response to the report's recommendations. I trust you will find the response satisfactory.

Sincerely,

Hon. Rob Nicholson, PC, QC, MP

Canada

February 3, 2015

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A-2017-00017-01777

ANNEX A

**CSE Response to the Recommendations in the CSE Commissioner's report
entitled *Review of CSE SIGINT Information Sharing with the Second Parties*****Review Recommendations**

Recommendation no. 1:

"To support the Minister of National Defence in his accountability for CSE and as an additional measure to protect the privacy of Canadians, CSE should record and include in its Annual Report to the Minister information about the communications CSE acquires from its Second Party partners in the United States, United Kingdom, Australia and New Zealand, including the number of one-end in Canada Second Party-collected communications, recognized by CSE analysts and used or retained for foreign intelligence purposes, as well as the number of this type of communication destroyed."

CSE Management Response to Recommendation no. 1:

Accepted. CSE will report certain supplemental data relating to communications CSE acquires from Second Parties that have been used or retained for foreign intelligence purposes, or marked for destruction. For example, the number of one-end in Canada Second Party-collected communications recognized and annotated by CSE analysts.

This supplemental reporting will begin with this year's Annual Report.

Recommendation no. 2:

"To support the Minister of National Defence in his accountability for CSE and as a measure to protect the privacy of Canadians, it is recommended that the Minister issue, under his authority pursuant to subsection 273.62(3) of the *National Defence Act*, a new ministerial directive to provide general direction to CSE on its foreign signals intelligence information sharing activities with its Second Party partners in the United States, United Kingdom, Australia and New Zealand, and to set out expectations for the protection of the privacy of Canadians in the conduct of those activities."

CSE Management Response to Recommendation no. 2:

Accepted. CSE will support the Minister in the development of a new ministerial directive to provide general direction to CSE on its information sharing activities with its Second Party partners, with a focus on privacy and legal obligations associated with such information sharing.

CSE will begin undertaking the necessary preparatory work that will inform the development of a proposal package for a Ministerial Directive that will apply to both SIGINT and IT Security, and will address the following points:

- The history and value of CSE's information sharing arrangements with Second Parties;
- Canada's expectations from the Five-Eyes information sharing arrangements;
- Limits on information sharing and measures to protect the privacy of Canadians;
- Requirements for reporting to the Minister;
- Compliance monitoring; and
- Review by the CSE Commissioner.

CSE expects that a draft Ministerial Directive package will be provided to the Minister for consideration by the end of fiscal year 2014/2015.