

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 # 2200-63**

March 23, 2012

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 an update on my review of CSEC's signals intelligence (SIGINT) information sharing activities with its second party partners — the U.S. National Security Agency, the U.K. Government Communications Headquarters, the Australian Defence Signals Directorate, and the New Zealand Government Communications Security Bureau. The review is being conducted under my authority as articulated in Part V.1, paragraph 273.63(2)(a) of the *National Defence Act (NDA)*.

I had committed to completing this review this year. However, it has taken longer than expected for several reasons, significantly including competing priorities of my office and of CSEC. First, I assessed that two other reviews must take priority. These reviews will, however, also address certain issues relating to SIGINT information sharing. One of the reviews deals with CSEC assistance to CSIS under part (c) of CSEC's mandate and sections 12 and 21 of the *CSIS Act* in support of Domestic Interception of Foreign Telecommunications and Search warrants, while the second review concerns CSEC's activities relating to [REDACTED]. You will receive my review reports on these two subjects early in the new fiscal year. The second reason relates to competing priorities of CSEC, partly reflecting CSEC responding to my shift in review priorities. However, the SIGINT information sharing review is also taking longer than expected due to staffing challenges at CSEC in support of review and delays in providing information and responses to questions from my office. This issue is the subject of discussion between my office and CSEC officials.

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My review of CSEC's SIGINT information sharing activities to-date has identified that the amount of foreign intelligence CSEC provides to and receives from the Second Parties is extensive; information sharing is an essential component of CSEC's SIGINT program.

Long-standing agreements and practices provide a foundation for CSEC's SIGINT information sharing with the Second Parties. These cooperative arrangements include a commitment by the Second Parties to respect the privacy of each others' citizens, and to act in a manner consistent with each others' policies relating to privacy. It is recognized, however, that each of the Second Parties is an agency of a sovereign nation that may derogate from the agreements, if it is judged necessary for their respective national interests.

Thus far, I have found that CSEC does take measures to protect the privacy of Canadians in what it shares with the Second Parties, for example: CSEC employees must apply CSEC privacy rules to second party-acquired communications; CSEC suppresses Canadian identity information in metadata and reports shared with the Second Parties; nationality checks and other measures help to limit the inadvertent targeting of Canadians by the Second Parties; and CSEC takes action to correct or mitigate privacy incidents involving the Second Parties.

However, my review has also identified important questions that I will examine, including: How many private communications of Canadians and what volume of Canadian identity information does CSEC share with and receive from the Second Parties? How does CSEC assure itself that its second party partners protect the private communications of Canadians and Canadian identity information, and that the Second Parties follow the agreements? This review also includes an examination of a sample of CSEC disclosures to its second party partners of Canadian identity information as well as relevant privacy incidents identified by CSEC.

I will complete my review and report to you on this subject in the next fiscal year. If you have any questions or comments, I will be pleased to discuss them with you at your convenience.

Yours sincerely,



Robert Décary

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

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