世の世紀

Communications Security Establishment Commissioner

The Honourable Jean - Pierre Plouffe, C.D.

Commissaire du Centre de la sécurité des télécommunications

L'honorable Jean - Pierre Plouffe, C.D.

TOP SECRET // SI // CEO

Our file # 2200-81

March 31, 2016

The Honourable Harjit S. Sajjan, PC, OMM, MSM, CD, MP Minister of National Defence 101 Colonel By Drive Ottawa, ON K1A 0K2

Dear Minister:

The purpose of this letter is to provide you with the results of a review of Communications Security Establishment (CSE) interception) under foreign signals intelligence (SIGINT) ministerial authorizations (MAs). The review was conducted under my authority as articulated in Part V.1, paragraph 273.63(2)(a) and subsection 273.65(8) of the <i>National Defence Act</i> (NDA), and in accordance with the Ministerial Directive on the Program, March 15, 2004 (MD). This directive was in effect during the period under review and has since been replaced with the Ministerial Directive on the Program (November 20, 2012), which reflects the current name of the program.
In 2008, Commissioner Gonthier completed a comprehensive review focused on activities. That report provides detailed background information, which remains generally applicable to current activities. Commissioner Gonthier found that CSE's activities were <i>not</i> conducted in accordance with all of the administrative requirements of the MD. As a result, he recommended that CSE reconcile the discrepancies between its practices and the directive's requirements. Commissioner Gonthier also identified deficiencies relating to insufficient and incomplete records. One purpose of the present review was to follow up on CSE actions to address past recommendations and negative findings.
CSE conducts activities under the authority of paragraph 273.64(1)(a) of the NDA, MAs and the MD. The directive authorized CSE to
In addition, the directive states that the Minister must authorize CSE

P.O. Box/C.P. 1984, Station "B"/Succursale «B» Ottawa, Canada K1P 5R5 T: 613-992-3044 F: 613-992-4096

TOP SECRET // SI // CEO

During the period under review, CSE obtained ministerial approval for between 2008 and 2012.
What is distinctive about activities is that they involve for the purposes of collecting foreign intelligence The activities also provide metadata in support of target discovery and network analysis, and cyber threat detection information in support of cyber defence activities.
activities are extremely sensitive. The program includes
It is conducted under a highly classified and tightly restricted need-to-know approach, and my office has been diligently respectful of security requirements.
For a number of reasons — including, limited resources of my office and of CSE, employee turnover, and an unanticipated incident of high priority that required a lengthy in-depth investigation — this review, first started in 2012–2013, could not be completed until now. In particular, it is exceptional and concerning that CSE answers to our questions were so often delayed and incomplete or inconsistent, requiring my officials to follow up. In this context, based on the information reviewed and the interviews conducted, I found no evidence of noncompliance with the law.
CSE has made improvements since the last comprehensive review of activities. A number of issues remain outstanding, however, and I am making a number of the same recommendations and findings as my predecessor.
I found that CSE did not meet requirements of the MD relating to security and risk management
Given the sensitivity of activities, as expressed by CSE, and the I am concerned that certain important documents concerning security and risk management remain incomplete. Therefore, I recommend that CSE reconcile the discrepancies between its practices for activities and the administrative obligations

TOP SECRET // SI // CEO

outlined in ministerial direction relating to security and risk management
I found more than one instance where, because of a lack of guidance on what constitutes costs of risks greater or significantly greater than activities previously conducted, it could be argued that prior to CSE should have sought approval from the National Security Advisor to the Prime Minister or from the Minister. The new MD on the Program contains, however, a new approval framework and additional guidance on assessing the disclosure risk. — including potential costs and cost related risks — that my office will examine in a planned follow-up review.
Another specific purpose of the review was to better understand the impact of activities on the privacy of Canadians. Compared with other SIGINT collection programs, activities have repeatedly resulted in the volume of communications collected by CSE. Not surprisingly, they have also resulted in the highest number of unintentionally intercepted private communications (PCs) recognized by CSE.
My office sought metrics for the number of communications intercepted by CSE for, and sent to, its five eyes partners. CSE provided information on all traffic sent to its second party partners from collection) for a six-month period. Existing CSE systems do not automatically track and record such information and it is currently difficult and time-consuming to obtain it. In 2013, in the context of a review of SIGINT MAs by Commissioner Décary, CSE indicated that it was working on a technical solution to track the number of communications intercepted by CSE and sent to its five eyes partners. In a subsequent review, my office will examine CSE efforts to address this problem and provide this information, which I believe is important to know for accountability.
Given the scope and nature of activities, the issues continuing from the previous comprehensive review, and the time that has elapsed since this review was started, I will commence a new review of CSE's program in the next fiscal year, and I will monitor that responses from CSE are provided in a timely manner.
Prior to finalizing this letter, my office provided CSE officials an opportunity to review and comment on the results of the review, for factual accuracy.
If you have any questions or comments, I will be pleased to discuss them with you at your convenience.
Yours sincerely,
Jasloy E.
Jean-Pierre Plouffe

c.c. Ms. Greta Bossenmaier, Chief, CSE