

Communications Security
Establishment Commissioner
The Honourable Robert Décary, C.D.



Commissaire du Centre de la
sécurité des télécommunications
L'honorable Robert Décary, c.r.

TOP SECRET//SI//CEO
Our file # 2200-71

March 20, 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 the results of my review of CSEC's Privacy Incident File (PIF) for calendar year 2011. 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)*.

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 legal and ministerial requirements, CSEC policies, and to prevent further incidents. The PIF represents a voluntary CSEC initiative, begun in 2007, to record events that CSEC defines as "privacy incidents". The PIF is made available for my review as a proactive means to demonstrate CSEC's commitment to transparency and to measures to protect the privacy of Canadians.

Based upon my review of the PIF record, I am satisfied that CSEC took appropriate corrective actions in response to the privacy incidents it recorded during 2011. My review did not reveal any systemic deficiencies or issues that require follow-on review. I did not make any recommendations.

My reviews of CSEC activities generally include an examination of any privacy incidents relating to the subject of review. This second annual 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

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incidents recorded by CSEC in its PIF in 2011. The objectives of the review were to: acquire knowledge of the incidents and subsequent actions to correct the incidents or mitigate the consequences; and inform development of my work plan, by determining what privacy incidents and related activities, if any, may raise issues about compliance 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.

In 2011, CSEC identified and recorded in its PIF [REDACTED] privacy incidents. Of these, [REDACTED] incidents involved the inadvertent sharing or inclusion, in a CSEC or second party report, of Canadian identity information by CSEC or by one of its second party partners (i.e., the United States' National Security Agency, the United Kingdom's Government Communications Headquarters or Australia's Defence Signals Directorate). [REDACTED] incidents concerned CSEC or a second party partner unknowingly targeting a Canadian or a person in Canada. [REDACTED] incidents concerned CSEC or a second party partner both inadvertently targeting and naming a Canadian or a person in Canada. [REDACTED] involved a gap in CSEC's guidance. Of the [REDACTED] privacy incidents, [REDACTED] involved CSEC's second party partners and [REDACTED] incidents involved other Government of Canada departments.

I am particularly interested in the remedial actions CSEC plans to take to address three particular incidents. One involves CSEC issuing guidance to address a policy gap relating to CSEC analytical exchanges of Canadian identity information with second party partners. This gap was identified during my ongoing review of CSEC's activities relating to a Canadian person. My report on this review, which you will receive early in the new fiscal year, will address this issue in detail. For two incidents relating to certain sensitive IT Security information, I am also pleased to note that CSEC will issue guidance to its operations centre for receiving such information as well as monitor the process for the proactive release of such information and associated reporting. I will monitor CSEC's efforts to address these three follow-on activities.

I am generally satisfied that CSEC addressed the suggestions referred to in my review last year of CSEC's PIF to make the PIF record complete and consistent. This year, most entries contained sufficient information, including about corrective and mitigation actions taken by CSEC or by its partner agencies.

I intend to continue 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 Forster, Chief, CSEC