

## **Air India Inquiry Action Plan**

### **Air India Inquiry Action Plan (December 2010)**

*Commitment 10 (p 7):* “Enable the review of national security activities involving multiple departments and agencies, and create an internal mechanism to ensure accountability and compliance with the laws and policies governing national security information sharing.”

### **Air India Inquiry Action Plan Progress Report (July 2011)**

*Status (p20):* “Ongoing; Work is underway to develop options for inter-agency review”

*Narrative (p12):* “Since the Action Plan’s release, Public Safety Canada has been working with key departments and agencies to develop options that would deliver effective and robust review, and accountability without undermining agencies’ operations or their capacity to protect Canada and Canadians. As this is a complex task, care is being taken to preserve the effectiveness of the mechanisms that already review individual agencies’ compliance with laws, policies, and ministerial directions. Work is underway to develop options for inter-agency review, recognizing that effective and robust review is essential to maintaining public confidence in the Government’s national security activities.”

## The O'Connor Commission of Inquiry

### Part I Recommendations

The Government accepted all 23 recommendations in Part I of Commissioner O'Connor's report.

The Government had previously implemented 22 of 23 the Part I recommendations, and with the tabling of Bill C-42, *An Act to amend the Royal Canadian Mounted Police Act and to make related and consequential amendments to other Acts (Enhancing Royal Canadian Mounted Police Accountability Act)*, the Government has moved to address the final outstanding recommendation

This final recommendation stated that "the RCMP's information-sharing practices and arrangements should be subject to review by an independent, arms-length review body."

### Part II Recommendations

Part II of Commissioner O'Connor's report, *A New Review Mechanism for the RCMP's National Security Activities*, expanded on the recommendation on review of the RCMP noted above (*see enclosed chapter*).

While many of the recommendations in Part II related to review of the RCMP specifically, Commissioner O'Connor also proposed a model for inter-agency review, recommending that:

- SIRC's mandate be expanded to include complaints investigations and self initiated reviews for the national security activities of CIC, DFAIT, FINTRAC, and TC (*see Recommendation 9, p558 and Recommendation 10, p573*)
- the new CPC's mandate be similarly expanded to include CBSA (*see Recommendation 10, p573*);
- statutory gateways between SIRC, the CPC, and the CSEC Commissioner be created to allow the three bodies to exchange of information, refer investigations, conduct of joint investigations and coordinate in the preparation of reports (*see Recommendation 11, p 580*); and
- a committee including the chairs of SIRC and the CPC, the CSEC Commissioner and an outside person to act as committee chair, be created (*see Recommendation 12 on p591*) to:
  - ensure that the statutory gateways among the independent review bodies operate effectively;
  - take steps to avoid duplicative reviews;

- provide a centralized intake mechanism for complaints regarding the national security activities of federal entities;
- report on accountability issues relating to practices and trends in the area of national security in Canada, including the effects of those practices and trends on human rights and freedoms;
- conduct public information programs with respect to its mandate, especially the complaint intake aspect; and
- initiate discussion for co-operative review with independent review bodies for provincial and municipal police forces involved in national security activities.

## The Security Intelligence Review Committee (SIRC)

SIRC was established in 1984. It includes a Committee of three to five Privy Counsellors, as well as a small group of officials and administrative staff located in Ottawa.

SIRC has three basic roles: it reviews CSIS operations, it investigates complaints, and it undertakes the certificate function formerly performed by the Inspector General of CSIS. All findings and recommendations are non-binding. SIRC tables a report in Parliament each year summarizing the results of the work it has undertaken.

### **Review Function**

SIRC conducts reviews on retrospective basis, so it does not provide oversight of current CSIS activities. SIRC reviews CSIS operations against legislation, Ministerial Direction, and internal CSIS operational policies.

SIRC operates on the basis of risk management. Since it is not capable of examining all of CSIS' activities in any given period, it must carefully choose which issues to examine. A number of factors influence this selection, including shifts in the nature of the threat environment, changes in technology, activities that have a significant potential to intrude on Canadians' rights and freedoms, and publicly expressed concerns of Parliamentarians and citizens.

### **Complaints Investigations Function**

Pursuant to section 41 of the *CSIS Act*, any person may make a complaint about any CSIS activity. Pursuant to section 42, any federal employee or contractor may make a complaint if his or her security clearance is denied or revoked. Pursuant to section 45 of *Canadian Human Rights Act*, any Minister of the Crown may refer a complaint made to the Canadian Human Rights Commission to SIRC if it involves issues relating to the security of Canada.

Complaints must be made in writing. Section 41 complaints must first be made to the Director of CSIS. Section 42 complaints must be made within 30 days of notification of the decision to deny or revoke a security clearance.

The complainant has the right to be represented by counsel, and to make representations at the hearing. SIRC may hold a pre-hearing to discuss administrative matters such as the number of witnesses to be called, and the hearing time required.

Hearings take place in private. Complainants may not be able to be present when other witnesses give evidence, due to the need to protect sensitive information. In the case of *ex parte* hearings, SIRC's Senior Counsel will cross examine witnesses on behalf of the complainant.

Following the hearing, the Committee will set out its findings and recommendations in a report, which it will submit to the Minister, Director of CSIS, and (in the case of a Section 42 complaint) Deputy Head of the department or agency concerned. The Committee will also provide the complainant with an expurgated version of the report.

### **Access to CSIS Information**

The *CSIS Act* provides SIRC with access to all information under the control of CSIS except Cabinet Confidences. Courts have not interpreted the scope of such a provision, but it has been interpreted by SIRC and CSIS to include privileged information. SIRC has full access to human source information after vetting to ensure the protection of human source identities. In addition, CSIS prepares a summary of relevant legal advice it has received upon request from SIRC.

SIRC also has access to information under the control of deputy heads of departments and agencies other than CSIS when such information is relevant to a particular complaint.

### **New functions with the elimination of the Inspector General**

Amendments to the *Canadian Security Intelligence Service Act* which eliminated the Inspector General of CSIS, also:

1. transferred from the Inspector General to SIRC the responsibility for producing a classified Certificate on the Director's annual report to the Minister of Public Safety on CSIS activities; and
2. required SIRC to provide the Minister of Public Safety with the reports of all reviews of CSIS activities that it initiates pursuant to section 40 of the *CSIS Act*, and to brief the Minister at least once a year on these activities.

**SECRET//CC**

In the July 2011 *Air India Inquiry Action Plan Progress Report*, the Government stated that:

*“Since the Action Plan’s release, Public Safety Canada has been working with key departments and agencies to develop options that would deliver effective and robust review, and accountability without undermining agencies’ operations or their capacity to protect Canada and Canadians. As this is a complex task, care is being taken to preserve the effectiveness of the mechanisms that already review individual agencies’ compliance with laws, policies, and ministerial directions. Work is underway to develop options for inter-agency review, recognizing that effective and robust review is essential to maintaining public confidence in the Government’s national security activities.”*

## Governance Models

	<b>SIRC</b>	<b>Office of the Auditor General</b>	<b>Parliamentary Budget Officer</b>
<b>Reporting</b>	Annual report to Parliament, tabled by the PS Minister.	Submits bi-annual reports to Speaker of the House of Commons; reports tabled in Parliament by the Speaker. Reports then automatically referred to the Parliamentary Committee of Public Accounts.	Reports to the Parliamentary Librarian. Reports then submitted to the Speakers of both the House of Commons and Senate.
<b>Enabling Statutes</b>	CSIS Act	<i>Auditor General Act and Financial Administration Act</i>	<i>Parliament of Canada Act</i> – under the <i>Library of Parliament</i>
<b>Funding</b>	Submission to TBS. SIRC's Chair is the CEO and the Executive Director is the Senior FO responsible for approving the yearly budget including funding allocations, and directing the overall planning process and cycle. An MOU with PCO exists for the provision of administrative support services.	OAG develops a submission for TBS. A Parliamentary oversight panel reviews both the submission and TBS's assessment of the submission.	Parliament's Operating Budget. A Parliamentary oversight body, the Board of Internal Economy, oversees the financial and administrative matters of the House of Commons including its services and staff (e.g. PBO).
<b>Appointment Process</b>	Chairman – is appointed by the Governor in Council from members of the Privy Council who are not members of the Senate / House of Commons.	AG – is an Officer of Parliament and is appointed after consultation with the leader of every recognized party in the Senate and House of Commons and approval of the appointment by resolution of the Senate and House of Commons.	PBO – is appointed by the Governor in Council from a list of three names submitted through the Leader of the Government in the House of Commons, by a committee formed and chaired by the Parliamentary Librarian.

## SIRC Funding Context

According to SIRC's *2012-13 Report on Plans and Priorities*, the current funding and staff for SIRC's Secretariat are:

**Total Budget:** \$2.534 million

**Total Staff:** 16 FTEs

Breakdown by activity:

**Review:** \$1,136 million, 8 FTEs

**Complaints:** \$0.939 million, 3.5 FTEs

**Internal Services:** \$0.459 million, 4.5 FTEs

Please note that **SIRC will receive an additional 2 FTEs** as a result of its taking on the functions formerly assumed by the Inspector General, bringing its **total staff to 18 FTEs**.

The **SIRC Committee** currently has 4 appointed members:

Chuck Strahl (Chair)

Frances Lankin

Denis Losier

Philippe Couillard

According to the *CSIS Act*, Committee can be comprised of 3-5 members, including the Chair. As such, given its current composition, one more person could be appointed to the Committee.

**Total complaints to SIRC by year:**

**2010-2011:** 48

2009-2010: 54

2008-2009: 45



## Arnott, Charles

---

**From:** Arnott, Charles  
**Sent:** August-21-12 12:36 PM  
**To:** DesRochers, Patrick  
**Cc:** Matthews, Pamela; Deault-Bonin, Emmanuelle; Banerjee, Ritu  
**Subject:** FW: 2011-12 DEPARTMENTAL PERFORMANCE REPORT (DPR)  
**Attachments:** PS-SP-#663403-1-DPR 2011-12- NS Policy Directorate Input.docx

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Here's the input we provided, in case it helps.

---

**From:** Arnott, Charles  
**Sent:** August-02-12 8:31 AM  
**To:** 'Jorgensen, Jeffrey'  
**Cc:** Ellington, Stephan; Davies, John; 'Galadza, Larisa'  
**Subject:** RE: 2011-12 DEPARTMENTAL PERFORMANCE REPORT (DPR)

Jeff,

We've added language on review in the attached revised NSPD input (in red on pages 1 and 2). It doesn't provide much substance, but it's probably as far as we can go without violating Cabinet Confidence. Given that it wasn't mentioned in the questionnaire, we just stuck it in the general section under priority 1.

Charlie

---

**From:** Jorgensen, Jeffrey  
**Sent:** August-01-12 3:53 PM  
**To:** Arnott, Charles  
**Cc:** Ellington, Stephan; Davies, John  
**Subject:** RE: 2011-12 DEPARTMENTAL PERFORMANCE REPORT (DPR)

Ok. Thanks Charles.

Jeff

---

**From:** Arnott, Charles  
**Sent:** August-01-12 3:50 PM  
**To:** Jorgensen, Jeffrey  
**Cc:** Ellington, Stephan; Davies, John  
**Subject:** Re: 2011-12 DEPARTMENTAL PERFORMANCE REPORT (DPR)

We'll see what we can do, but realistically I'm guessing that it may be 9:30 or 10.

Sent from wireless handheld

---

**From:** Jorgensen, Jeffrey  
**Sent:** Wednesday, August 01, 2012 03:43 PM  
**To:** Arnott, Charles; Mahu, Vlad; Mohammed, Melanie  
**Cc:** Ellington, Stephan

**Subject:** RE: 2011-12 DEPARTMENTAL PERFORMANCE REPORT (DPR)

Yes please, by 8:30 if possible.

*Jeff*

---

**From:** Arnott, Charles  
**Sent:** August-01-12 3:41 PM  
**To:** Jorgensen, Jeffrey; Mahu, Vlad; Mohammed, Melanie  
**Cc:** Ellington, Stephan  
**Subject:** Re: 2011-12 DEPARTMENTAL PERFORMANCE REPORT (DPR)

Yes, that's ours. Can I get you language tomorrow?  
Sent from wireless handheld

---

**From:** Jorgensen, Jeffrey  
**Sent:** Wednesday, August 01, 2012 03:29 PM  
**To:** Arnott, Charles; Mahu, Vlad; Mohammed, Melanie  
**Cc:** Ellington, Stephan  
**Subject:** 2011-12 DEPARTMENTAL PERFORMANCE REPORT (DPR)

Hi folks,

We just did a crosswalk between the 11-12 RPP and your DPR input. One item in the DPR does not seem to come up:

"...finalize the development of a mechanism for the review of national security activities involving more than one department or agency" as noted on page 19 of the 11-12 RPP.


Does anyone know what this refers to?

Thanks.

Jeff

**Jeff Jorgensen, BA, MPA**  
Senior Policy Advisor | Conseil principale en politiques  
Critical Infrastructure and Strategic Coordination Directorate | La Directorate de l'infrastructure essentielles et de la coordination stratégique  
Public Safety Canada | Sécurité publique Canada  
269 Laurier Avenue West, Ottawa ON K1A 0P8 | 269, avenue Laurier Ouest, Ottawa ON K1A0P8  
[jeffrey.jorgensen@ps-sp.gc.ca](mailto:jeffrey.jorgensen@ps-sp.gc.ca)  
Telephone | Téléphone 613-990-9361  
Cellular | Cellulaire [REDACTED]  
Facsimile | Télécopieur 613-949-7381  
Government of Canada | Gouvernement du Canada

## 2011-12 Departmental Performance Report Template National Security Branch

 Please refer to the 2011-12 Report on Plans and Priorities.

### CONTRIBUTION OF PRIORITIES TO THE STRATEGIC OUTCOME

#### PRIORITY 1 – Enhance Canada’s approach to national security including a focus on countering violent extremism and improving information sharing

(PA: National Security, Countering Crime)

- *What progress was made towards meeting this priority?* **Information sharing:** Public Safety Canada, in consultation with the Department of Justice, continues to lead the process of implementing a key commitment of the *Air India Inquiry Action Plan* to improve information sharing within the Government of Canada for national security purposes. Public Safety Canada has refined legislative and policy options that would improve the timeliness and effectiveness of such sharing by addressing the barriers identified by federal departments and agencies. **Addressing challenges with non-citizens in Canada who pose a threat to national security (Security Inadmissibility):** Bill C-43, the *Faster Removal of Foreign Criminals Act*, tabled on June 20, 2012, includes provisions to amend the *Immigration and Refugee Protection Act* to impose prescribed minimum conditions on non-citizens in Canada reported or found inadmissible to Canada on security grounds. **Countering Violent Extremism:** In 2011-12 the Department, in close collaboration with federal partners, undertook a comprehensive analysis of the federal government’s approach to countering violent extremism. This work resulted in the identification of eight concrete areas to further enhance Canada’s capacity in preventing and countering violent extremism. These Government of Canada priority action areas range from developing a proactive whole-of-government communication strategy to engagement with provincial and territorial counterparts. **Counter Proliferation:** In 2011-12, Public Safety Canada reviewed existing laws, policies and programs in the area of counter-proliferation in order to identify gaps in the national security framework, and examine ways to strengthen Canada’s ability to deal with proliferation-related threats. **Counter-Terrorism:** In February 2012, the Government released *Building Resilience Against Terrorism: Canada’s Counter-Terrorism Strategy*. The development of this Strategy was led by Public Safety and the Privy Council Office. It represents the first time that Canada has publicly articulated its approach to countering terrorism in one strategic document. **Inter-Agency Review:** Public Safety Canada has been working with key departments and agencies to develop options that would deliver effective and robust review and accountability of national security activities involving multiple departments and agencies in a manner that would not undermine agencies’ operations or their capacity to protect Canada and Canadians. As this is a complex task, care is being taken to preserve the effectiveness of the mechanisms that already review individual agencies’ compliance with laws, policies, and ministerial

directions

- *How did this work contribute to a safe and resilient Canada?* **Information Sharing:** By improving the effectiveness and timeliness of information sharing for national security purposes within the federal Government, this process will improve the capacity of federal departments and agencies to detect and address threats quickly. Throughout this process, particular attention has been given to developing options that do not negatively affect the operational realities of departments and agencies, while ensuring that any changes respect the *Charter of Rights and Freedoms* and the privacy rights of Canadians. **Security inadmissibility:** Once in force, prescribed minimum conditions will provide a standard base-level of monitoring for non-citizens who are alleged or found inadmissible on security grounds, which includes activities such as espionage, subversion and terrorism. This will allow officers to maintain better awareness of these non-citizens while in Canada. Prescribed conditions would only cease to apply if the non-citizen is detained, is removed from Canada, is found admissible to Canada or is relieved of their inadmissibility. **Countering Violent Extremism:** Work to advance federal efforts in countering violent extremism fall under the 'Prevent' element of the Counter-terrorism Strategy. The eight priority action areas aim to address key gaps in federal government efforts to counter violent extremism and to optimize and bolster existing efforts to prevent and counter the threat domestically. Enhanced federal efforts in areas of communications, engagement, research, and policy and operational responses directly contribute to a safe and resilient Canada. **Counter Proliferation:** Public Safety Canada's work toward developing measures to strengthen Canada's domestic capacity to counter proliferation threats helps to protect Canada and its allies from new, rapidly evolving threats and challenges to national security. **Counter-Terrorism:** Canada's Strategy now enables ongoing review and further development of Canada's approach to preventing, detecting, denying and responding to terrorism. It enhances Canada's ability to cooperate with our allies and partners by providing a common basis to address shared threats. The Strategy also provides a vehicle to promote an open discussion with citizens on the threats facing Canada. Most importantly, the Strategy will serve to better prioritize and organize our efforts to challenge the terrorist threat, both at home and against Canadian interests abroad. **Inter-Agency Review:** Implementing a mechanism that will provide robust review and accountability of national security activities involving multiple departments and agencies is essential to maintaining public confidence in the Government's national security activities.
- *Performance indicator:*
  - What was the number of Air India Inquiry Action Plan commitments for which Public Safety Canada is responsible? Provide further information and references, where applicable.* Public Safety Canada is responsible for six Action Plan commitments, specifically: (1) introducing more transparency and accountability into decisions concerning the admission to the Witness Protection Program; (2) promoting the fair and equitable treatment of

protectees by focusing more on their needs; (3) introducing legislation to clarify the authorities for information sharing for the purposes of national security; (4) enabling the review of national security activities involving multiple departments and agencies, and creating an internal mechanism to ensure accountability and compliance with the laws and policies governing national security information sharing; (5) advancing Bill C-42, *An Act to Amend the Aeronautics Act (Strengthening Aviation Security)*; and (6) enhancing the Passenger Protect Program, which prevents individuals who pose a threat to aviation security from boarding an aircraft. In summer 2011, a Progress Report was released to provide details on the status of each of the Action Plan's 17 commitments:

<http://www.publicsafety.gc.ca/prg/ns/ai182/ai-prg-rep-eng.aspx>.

- *What progress was made towards each of the following initiatives?*
  - a) Complete and unveil the final memorial to the Air India victims in Montreal  
SPB is the lead on this issue.
  - b) Enhance the federal Witness Protection Program  
LPB is the lead on this issue.
  - c) Develop proposed legislation to clarify the authorities for information sharing  
Public Safety Canada, in consultation with the Department of Justice, continues to lead the process of improving information sharing within the Government of Canada for national security purposes. Public Safety Canada has refined legislative and policy options that would improve the timeliness and effectiveness of such sharing by addressing the barriers identified by federal departments and agencies.
  - d) Examine how security intelligence is collected and retained  
CSIS is the lead on this issue. However, the summer 2011 Progress Report noted that CSIS would be implementing new directives and practices in Fall 2011 to ensure it continues to comply with the Supreme Court of Canada decision.
  - e) Develop policy options to address challenges associated with foreign nationals in Canada considered inadmissible for national security reasons  
Policy options were finalized in winter 2012 and resulted in provisions included in Bill C-43, the *Faster Removal of Foreign Criminals Act*, tabled on June 20, 2012.
- *Please provide further explanation if any commitments/initiatives were not achieved.*  
Given the complexity of many Air India Inquiry Action Plan commitments, it is important that the appropriate amount of time be taken to ensure the outstanding commitments are developed and implemented adequately. Departments and agencies will continue to work towards the full implementation of all outstanding commitments.

**PRIORITY 4 – Provide national leadership in implementing Canada's Cyber Security Strategy including a focus on threats to Canada's critical infrastructure**

*(PA: National Security)*

1. *What progress was made towards meeting this priority? Click here to enter text.*
2. *How did this work contribute to a safe and resilient Canada? Click here to enter text.*
3. *Performance indicators:*
  - a) *How many tools were developed to facilitate risk management activities and identified interdependencies? Provide further information and references, where applicable. Click here to enter text.*
  - b) *What is the percentage of sectors with access to methodologies for protecting sensitive information? Provide further information and references, where applicable. Click here to enter text.*
4. *What progress was made towards each of the following initiatives?*
  - a) *Develop tools to protect sensitive critical infrastructure information from inappropriate disclosure Click here to enter text.*
  - b) *Share methodologies for identifying critical infrastructure interdependencies Click here to enter text.*
  - c) *Develop a common understanding of critical infrastructure in each of the ten sectors Click here to enter text.*
  - d) *Examine options for strengthening Canada-U.S., information sharing on critical infrastructure Click here to enter text.*
  - e) *Analyze policy and legislative gaps in the area of cyber security Click here to enter text.*
  - f) *Advance strategic cyber policy coherence with approaches being developed and/or implemented among or by key international partners Click here to enter text.*
  - g) *Work with partner departments and agencies to deliver a horizontal performance measurement framework for the whole-of-government cyber security program by September 30, 2012 Click here to enter text.*
  - h) *Lead the federal engagement of provinces, territories and the private sector, including critical infrastructure sectors, to implement the Strategy to protect our digital infrastructure Click here to enter text.*
  - i) *Develop and implement a public awareness campaign to increase Canadians' awareness of cyber threats and the measures they can take to ensure their safety online Click here to enter text.*
5. *Please provide further explanation if any commitments/initiatives were not achieved. Click here to enter text.*

## **PRIORITY 5 – Strengthen departmental policy leadership through enhanced Portfolio engagement**

*(PA: ALL PROGRAM ACTIVITIES)*

1. *What progress was made towards meeting this priority?* **Information Sharing and Inter-Agency Review:** Public Safety Canada has been engaged in extensive and in-depth consultations with key Portfolio agencies in the development of policy options relating to information sharing and the review of national security activities involving multiple departments and agencies. The Portfolio plays a key role in identifying gaps and developing policy options that adequately address those deficiencies.
2. *How did this work contribute to a safe and resilient Canada?* Click here to enter text.
3. *Performance indicators:*  
*What was the Management Accountability Framework rating for portfolio coordination under the Area of Management 3 – Government and Planning? Provide further information and reference, where applicable.* Click here to enter text.
4. *What progress was made towards each of the following initiatives?*
  - a) Pursue legislative efforts to enable law enforcement and national security agencies access to vital investigative information in a rapidly changing technological environment (Bill C-52) Click here to enter text.
  - b) Pursue legislative efforts to deter marine-based migrant smuggling operations (Bill C-49) Click here to enter text.
  - c) Lead corrections and criminal justice bills before Parliament Click here to enter text.
  - d) Establish an interoperable software capability (CCM Mercury) to facilitate an exchange of information across the Portfolio Click here to enter text.
  - e) Continue leading intra- and interdepartmental networks Click here to enter text.
  - f) Expand the Department and Portfolio's relationship with Statistics Canada Click here to enter text.
  - g) Develop and advance a Canada-U.S. border vision drawing on advice from experts in areas that include policing and border management  
Consistent with the "Addressing Threats Early" commitment under the *Beyond the Border Action Plan*, in FY2011-12 Canada and the United States determined a way ahead for improving effective and responsible information sharing in support of national security. This has included work to improve our understanding of each country's legal, policy and operational approaches to information sharing, and to identify and assess areas for improvement in the bilateral sharing relationship. Moreover, the Department is committed to enhancing our shared understanding of the threat environment by undertaking joint, integrated threat assessments with the United States. To this end, a

bilateral group of senior government representatives are working together to identify threats, as well as intelligence and knowledge gaps, which form the basis of these assessments. All of our work respects each country's constitutional and legal frameworks.


- h) Exchange strategies and intelligence with Portfolio agencies to promote international engagements that advance key Canadian public safety objectives  
Click here to enter text.

- 5. *Please provide further explanation if any commitments/initiatives were not achieved.*  
Click here to enter text.



## ANALYSIS OF PROGRAM ACTIVITIES

### NATIONAL SECURITY

 Please refer to pages 18-20 of the 2011-12 Report on Plans and Priorities for a complete list of activities and commitments related to this program activity.

#### Performance Summary

Expected Results	Performance Indicators	Targets	Actuals
Canada is prepared for and can respond to national security threats	Number of actions taken to address identified national security threats	Baseline TBD	14 (for NSPD)
Canada's critical infrastructure is resilient	Critical Infrastructure Resilience Score	Baseline TBD	Click here to enter text.

#### Advance commitments made in the Air India Action Plan

- 1) How did this initiative support a safe and resilient Canada? Since the release of the final report of the *Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182* (the Commission), departments and agencies have been working to develop initiatives and/or improve current programs to implement the commitments made in the Action Plan. The implementation of these commitments will address a number of outstanding security concerns relating to Canada's security and intelligence system.
- 2) What progress was made towards meeting this initiative? Please substantiate the performance status result above by using qualitative data, as well as any relevant metrics. Please cite and provide references, where possible. In summer 2011, Public Safety Canada led the development of a Progress Report, which provided details on the status of each of the Air India Inquiry Action Plan's 17 commitments (<http://www.publicsafety.gc.ca/prg/ns/ai182/ai-prg-rep-eng.aspx>). Of note, the Progress Report showed that two commitments were fully implemented. With regards to the 15 remaining commitments, the Progress Report indicated that five of these were partially implemented with work continuing towards the full implementation of all outstanding commitments.
  - o Please provide information (i.e. trends and descriptive data) on this program's overall performance and on the external environment influenced by this program/initiative. The use of Performance Measurement Framework (PMF) indicators or other relevant metrics is recommended. Please cite and provide references, where possible. Not applicable
- 3) Please explain further if the targets/results were not achieved. Given the complexity of many Air India Inquiry Action Plan commitments, it is

important that the appropriate amount of time be taken to ensure the outstanding commitments are developed and implemented adequately.

- 4) Please discuss the impacts of any resource changes (both increases and decreases) on results. Not applicable
- 5) Please provide findings and/or relevant responses to evaluations, parliamentary committees and Auditor General reports. Public Safety Canada prepared a response to the 2009 recommendation by the Auditor General of Canada that the Privy Council Office and Public Safety Canada, with the assistance of the Department of Justice and the Treasury Board of Canada Secretariat, should increase their efforts to examine and provide guidance on the sharing of information among government departments and agencies while balancing privacy concerns with national security concerns. The 2012 response to the Auditor General of Canada is consistent with the information provided in this template.
- 6) Please provide any lessons learned, a clearer direction on related future plans, and describe efforts to achieving and/or improving these results. Departments and agencies will continue to work towards the full implementation of all outstanding commitments.

**Coordinate the listing and delisting of terrorist entities pursuant to the *Criminal Code*; as well as monitor and advise on domestic and international national security cases**

- 1) How did this initiative support a safe and resilient Canada? [Click here to enter text.](#)
- 2) What progress was made towards meeting this initiative? Please substantiate the performance status result above by using qualitative data, as well as any relevant metrics. Please cite and provide references, where possible. [Click here to enter text.](#)
  - Please provide information (i.e. trends and descriptive data) on this program's overall performance and on the external environment influenced by this program/initiative. The use of Performance Measurement Framework (PMF) indicators or other relevant metrics is recommended. Please cite and provide references, where possible. [Click here to enter text.](#)
- 3) Please explain further if the targets/results were not achieved. [Click here to enter text.](#)
- 4) Please discuss the impacts of any resource changes (both increases and decreases) on results. [Click here to enter text.](#)
- 5) Please provide findings and/or relevant responses to evaluations, parliamentary committees and Auditor General reports. [Click here to enter text.](#)
- 6) Please provide any lessons learned, a clearer direction on related future plans, and describe efforts to achieving and/or improving these results. [Click here to enter text.](#)

**Provide operational leadership to implicated departments and portfolio agencies aimed at enhancing Canada's ability to prevent marine human smuggling and the irregular arrival of asylum seekers and advance changes introduced in Bill C-49**

- 1) How did this initiative support a safe and resilient Canada? [Click here to enter text.](#)
- 2) What progress was made towards meeting this initiative? Please substantiate the performance status result above by using qualitative data, as well as any relevant metrics. Please cite and provide references, where possible. [Click here to enter text.](#)
  - Please provide information (i.e. trends and descriptive data) on this program's overall performance and on the external environment influenced by this program/initiative. The use of Performance Measurement Framework (PMF) indicators or other relevant metrics is recommended. Please cite and provide references, where possible. [Click here to enter text.](#)
- 3) Please explain further if the targets/results were not achieved. [Click here to enter text.](#)
- 4) Please discuss the impacts of any resource changes (both increases and decreases) on results. [Click here to enter text.](#)
- 5) Please provide findings and/or relevant responses to evaluations, parliamentary committees and Auditor General reports. [Click here to enter text.](#)
- 6) Please provide any lessons learned, a clearer direction on related future plans, and describe efforts to achieving and/or improving these results. [Click here to enter text.](#)

#### **Make enhancements to the national security framework through policies, programs and legislative options – engagement with key counter-terrorism partners**

- 1) How did this initiative support a safe and resilient Canada? **Countering Violent Extremism:** The Department's leadership role within the Global Counterterrorism Forum's Countering Violent Extremism Working Group supports a safe and resilient Canada through the exploration and advancement of models for evaluating the effectiveness of counter violent extremism policies, projects and programs, to ensure value for money and effective, long lasting impacts. **Counter-Terrorism:** As part of the implementation of Canada's Counter-Terrorism Strategy, Public Safety has pursued engagement opportunities with a variety of partners, at home and abroad. This includes maintaining longstanding and productive relationships with a number of countries including the United States and other members of the G8. It also includes multilateral organizations such as the North Atlantic Treaty Organization and the United Nations. In addition, working in conjunction with other departments, Public Safety has also continued to improve our ability to cooperate with other countries around the world that share our commitment to countering the global terrorist threat.
- 2) What progress was made towards meeting this initiative? Please substantiate the performance status result above by using qualitative data, as well as any relevant metrics. Please cite and provide references, where possible. **Countering Violent Extremism:** During the reporting period,

the Department launched a project within the Global Counterterrorism Forum's Working Group on Countering Violent Extremism on the topic of measuring the effectiveness of countering violent extremism programming. This project requires significant research and leadership within this international forum, which involves counter-terrorism experts from 30 countries, including the European Union, and the United Nations. In February 2012, the Department co-hosted with the Netherlands and the United Kingdom a largely successful international colloquium that brought together experts in counter-terrorism and other fields to explore the effectiveness of counter-terrorism and violent extremism programming. **Counter-Terrorism:** In conjunction with the February 2012 release of Canada's Counter-Terrorism Strategy, Public Safety pursued an engagement strategy designed to promote and implement the Strategy. The Department conducted visits to the United States and United Kingdom, and met separately with officials from Australia, the Netherlands and others. The Department also coordinated with officials at both NATO and the United Nations. Within Canada, Public Safety has enhanced our interdepartmental coordination and conducted outreach through the Cross-Cultural Roundtable on Security and academic community.

- Please provide information (i.e. trends and descriptive data) on this program's overall performance and on the external environment influenced by this program/initiative. The use of Performance Measurement Framework (PMF) indicators or other relevant metrics is recommended. Please cite and provide references, where possible. [Click here to enter text.](#)
- 3) Please explain further if the targets/results were not achieved. [Click here to enter text.](#)
  - 4) Please discuss the impacts of any resource changes (both increases and decreases) on results. [Click here to enter text.](#)
  - 5) Please provide findings and/or relevant responses to evaluations, parliamentary committees and Auditor General reports. [Click here to enter text.](#)
  - 6) Please provide any lessons learned, a clearer direction on related future plans, and describe efforts to achieving and/or improving these results. **Countering Violent Extremism:** In the next fiscal period (2012-13), the Department will continue to advance the work on measuring the effectiveness of countering violent extremism programming, which will include working with other project leads within the Global Counterterrorism Forum to encourage them to incorporate an evaluation component into their respective workstreams. Building upon the colloquium held in February 2012, the Department will also host an international symposium in January/February 2013 on measuring the effectiveness of public engagement initiatives in countering violent extremism.

**Work with OGDs and agencies to develop policy options and responses to strengthen Canada's domestic capacity to counter violent extremism; counter proliferation threats; and address challenges associated with foreign nationals in Canada considered inadmissible for national security reasons**

- 1) How did this initiative support a safe and resilient Canada? **Security Inadmissibility:** To address challenges with non-citizens in Canada who are inadmissible for national security reasons, Public Safety Canada led a horizontal policy development initiative (which involved Justice Canada, Citizenship and Immigration Canada, Foreign Affairs and International Trade Canada, the Canada Border Services Agency, the Canadian Security Intelligence Service, the Royal Canadian Mounted Police and the Immigration and Refugee Board). As a result, provisions were included in Bill C-43 and, once they come into force, a standard base-level of prescribed conditions will be applied to non-citizens in Canada who have been reported or found inadmissible on security grounds. The prescribed conditions would only cease to apply if the non-citizen was detained, removed from Canada, found admissible to Canada or relieved of their inadmissibility. **Counter Proliferation:** Public Safety Canada provides strategic coordination for the activities of the Public Safety Portfolio, in addition to working with OGDs on an ongoing basis. This work, including the development of measures to strengthen Canada's domestic capacity to counter proliferation threats, helps to protect Canada and its allies from new, rapidly evolving threats and challenges to national security. **Countering Violent Extremism:** Federal efforts to counter violent extremism directly contribute to the Department's mandate of a safe and resilient Canada through the exploration and development of policies, projects and programs that aim to prevent individuals from radicalizing to the point of violence and to dissuade individuals who have radicalized from engaging in criminal activity (i.e., violent extremism).
- 2) What progress was made towards meeting this initiative? Please substantiate the performance status result above by using qualitative data, as well as any relevant metrics. Please cite and provide references, where possible. **Security Inadmissibility:** Policy development was concluded in winter 2012 and the resulting legislative provisions were included in Bill C-43, which was tabled on June 20, 2012. **Countering Violent Extremism:** In 2011-12, in close collaboration with federal departments and agencies, the Department advanced work in eight priority action areas to close key gaps and bolster existing efforts across a range of issues from strategic communications to engagement of federal and provincial counterparts on the domestic threat of violent extremism.
  - Please provide information (i.e. trends and descriptive data) on this program's overall performance and on the external environment influenced by this program/initiative. The use of Performance Measurement Framework (PMF) indicators or other relevant metrics is recommended. Please cite and provide references, where possible. **Security Inadmissibility:** Policy development and drafting/tabling of legislative provisions were concluded within expected timeframes. These legislative provisions were included as part of a broader set of amendments to the *Immigration and Refugee Protection Act*, Bill C-43 (the *Faster Removal of Foreign Criminals Act*). The bundling of these various sets of legislative provisions in one bill provided an opportunity for departments and agencies to ensure that all provisions were coherent. It is expected that this approach will also lead to efficiencies during the Parliamentary consideration and debate processes of the Bill.
- 3) Please explain further if the targets/results were not achieved. **Countering Violent Extremism:** In 2011-12, the Department met its Countering Violent Extremism target (PMF) through the development of eight proposals to close key gaps and bolster existing federal efforts.

- 4) Please discuss the impacts of any resource changes (both increases and decreases) on results. Not applicable
- 5) Please provide findings and/or relevant responses to evaluations, parliamentary committees and Auditor General reports. Not applicable
- 6) Please provide any lessons learned, a clearer direction on related future plans, and describe efforts to achieving and/or improving these results. **Countering Violent Extremism:** In next fiscal year (2012-13), the Department will continue to advance work in these eight priority action areas, and will continue to explore whether there are other key gaps and opportunities to enhance federal efforts in preventing and countering violent extremism. **Counter-Proliferation:** The Department recognises that achieving its national security objectives requires continued collaboration with portfolio partners and other federal partners.

**Continue supporting the advancement of the *Justice for Victims of Terrorism Act*, to deter future terrorist activities**

- 1) How did this initiative support a safe and resilient Canada? The *Justice for Victims of Terrorism Act* complements Canada's existing counter-terrorism measures by deterring terrorism, responding to the needs of victims, and demonstrating Canada's leadership against the perpetrators and supporters of terrorism around the world.
- 2) What progress was made towards meeting this initiative? Please substantiate the performance status result above by using qualitative data, as well as any relevant metrics. Please cite and provide references, where possible. The *Justice for Victims of Terrorism Act*, which was included as part of Bill C-10, the *Safe Streets and Communities Act*, received Royal Assent on March 13, 2012, and came into effect on that day. Under this Act, any person who is a Canadian citizen or permanent resident, or who can demonstrate a real and substantial connection between their action and Canada, is allowed to sue, in a Canadian court, the perpetrators and supporters of terrorism to seek redress for loss or damage that occurred as a result of a terrorist act committed anywhere in the world on, or after, January 1, 1985. This includes the ability to bring an action against foreign states listed by the Government for directly committing an act of terrorism or for supporting terrorism. The Act requires that a list of such foreign states be established within six months of the Act's coming into force.
  - Please provide information (i.e. trends and descriptive data) on this program's overall performance and on the external environment influenced by this program/initiative. The use of Performance Measurement Framework (PMF) indicators or other relevant metrics is recommended. Please cite and provide references, where possible. Not applicable
- 3) Please explain further if the targets/results were not achieved. Not applicable
- 4) Please discuss the impacts of any resource changes (both increases and decreases) on results. Not applicable
- 5) Please provide findings and/or relevant responses to evaluations, parliamentary committees and Auditor General reports. Not applicable
- 6) Please provide any lessons learned, a clearer direction on related future plans, and describe efforts to achieving and/or improving these results. Not applicable

**Develop a horizontal performance measurement strategy to report on the implementation of the Cyber Security Strategy**

- 1) How did this initiative support a safe and resilient Canada? [Click here to enter text.](#)
- 2) What progress was made towards meeting this initiative? Please substantiate the performance status result above by using qualitative data, as well as any relevant metrics. Please cite and provide references, where possible. [Click here to enter text.](#)
  - Please provide information (i.e. trends and descriptive data) on this program's overall performance and on the external environment



influenced by this program/initiative. The use of Performance Measurement Framework (PMF) indicators or other relevant metrics is recommended. Please cite and provide references, where possible. [Click here to enter text.](#)

- 3) Please explain further if the targets/results were not achieved. [Click here to enter text.](#)
- 4) Please discuss the impacts of any resource changes (both increases and decreases) on results. [Click here to enter text.](#)
- 5) Please provide findings and/or relevant responses to evaluations, parliamentary committees and Auditor General reports. [Click here to enter text.](#)
- 6) Please provide any lessons learned, a clearer direction on related future plans, and describe efforts to achieving and/or improving these results. [Click here to enter text.](#)

#### **Develop policy options for the Government of potential mitigating measures and security safeguards**

- 1) How did this initiative support a safe and resilient Canada? [Click here to enter text.](#)
- 2) What progress was made towards meeting this initiative? Please substantiate the performance status result above by using qualitative data, as well as any relevant metrics. Please cite and provide references, where possible. [Click here to enter text.](#)
  - Please provide information (i.e. trends and descriptive data) on this program's overall performance and on the external environment influenced by this program/initiative. The use of Performance Measurement Framework (PMF) indicators or other relevant metrics is recommended. Please cite and provide references, where possible. [Click here to enter text.](#)
- 3) Please explain further if the targets/results were not achieved. [Click here to enter text.](#)
- 4) Please discuss the impacts of any resource changes (both increases and decreases) on results. [Click here to enter text.](#)
- 5) Please provide findings and/or relevant responses to evaluations, parliamentary committees and Auditor General reports. [Click here to enter text.](#)
- 6) Please provide any lessons learned, a clearer direction on related future plans, and describe efforts to achieving and/or improving these results. [Click here to enter text.](#)

**Develop an awareness campaign to help protect Canadians against cyber threats**

- 1) How did this initiative support a safe and resilient Canada? [Click here to enter text.](#)
- 2) What progress was made towards meeting this initiative? Please substantiate the performance status result above by using qualitative data, as well as any relevant metrics. Please cite and provide references, where possible. [Click here to enter text.](#)
  - Please provide information (i.e. trends and descriptive data) on this program's overall performance and on the external environment influenced by this program/initiative. The use of Performance Measurement Framework (PMF) indicators or other relevant metrics is recommended. Please cite and provide references, where possible. [Click here to enter text.](#)
- 3) Please explain further if the targets/results were not achieved. [Click here to enter text.](#)
- 4) Please discuss the impacts of any resource changes (both increases and decreases) on results. [Click here to enter text.](#)
- 5) Please provide findings and/or relevant responses to evaluations, parliamentary committees and Auditor General reports. [Click here to enter text.](#)
- 6) Please provide any lessons learned, a clearer direction on related future plans, and describe efforts to achieving and/or improving these results. [Click here to enter text.](#)

### **Lead horizontal efforts to implement the National Strategy and Action Plan for Critical Infrastructure**


- 1) How did this initiative support a safe and resilient Canada? [Click here to enter text.](#)
- 2) What progress was made towards meeting this initiative? Please substantiate the performance status result above by using qualitative data, as well as any relevant metrics. Please cite and provide references, where possible. [Click here to enter text.](#)
  - Please provide information (i.e. trends and descriptive data) on this program's overall performance and on the external environment influenced by this program/initiative. The use of Performance Measurement Framework (PMF) indicators or other relevant metrics is recommended. Please cite and provide references, where possible. [Click here to enter text.](#)
- 3) Please explain further if the targets/results were not achieved. [Click here to enter text.](#)
- 4) Please discuss the impacts of any resource changes (both increases and decreases) on results. [Click here to enter text.](#)
- 5) Please provide findings and/or relevant responses to evaluations, parliamentary committees and Auditor General reports. [Click here to enter text.](#)
- 6) Please provide any lessons learned, a clearer direction on related future plans, and describe efforts to achieving and/or improving these results. [Click here to enter text.](#)

### **Develop a preliminary critical infrastructure resilience index**

- 1) How did this initiative support a safe and resilient Canada? [Click here to enter text.](#)
- 2) What progress was made towards meeting this initiative? Please substantiate the performance status result above by using qualitative data, as well as any relevant metrics. Please cite and provide references, where possible. [Click here to enter text.](#)
  - Please provide information (i.e. trends and descriptive data) on this program's overall performance and on the external environment influenced by this program/initiative. The use of Performance Measurement Framework (PMF) indicators or other relevant metrics is recommended. Please cite and provide references, where possible. [Click here to enter text.](#)
- 3) Please explain further if the targets/results were not achieved. [Click here to enter text.](#)
- 4) Please discuss the impacts of any resource changes (both increases and decreases) on results. [Click here to enter text.](#)

- 5) Please provide findings and/or relevant responses to evaluations, parliamentary committees and Auditor General reports. [Click here to enter text.](#)
- 6) Please provide any lessons learned, a clearer direction on related future plans, and describe efforts to achieving and/or improving these results. [Click here to enter text.](#)

## BORDER STRATEGIES

 Please refer to pages 21 and 22 of the 2011-12 Report on Plans and Priorities for a complete list of activities and commitments related to this program activity.

### Performance Summary

Expected Result	Performance Indicators	Targets	Actuals
Secure borders that facilitate legitimate trade and travel	Percentage of border wait times standards that are achieved	TBD	Click here to enter text.
	Number of inadmissible individuals refused entry and/or removed from Canada	TBD	Click here to enter text.
	Percentage of goods examined that results in an enforcement action	TBD	Click here to enter text.

### Further progress key border initiatives previously announced with the U.S.

- 1) How did this initiative support a safe and resilient Canada? Click here to enter text.
- 2) What progress was made towards meeting this initiative? Please substantiate the performance status result above by using qualitative data, as well as any relevant metrics. Please cite and provide references, where possible. Click here to enter text.
  - Please provide information (i.e. trends and descriptive data) on this program's overall performance and on the external environment influenced by this program/initiative. The use of Performance Measurement Framework (PMF) indicators or other relevant metrics is recommended. Please cite and provide references, where possible. Click here to enter text.
- 3) Please explain further if the targets/results were not achieved. Click here to enter text.
- 4) Please discuss the impacts of any resource changes (both increases and decreases) on results. Click here to enter text.
- 5) Please provide findings and/or relevant responses to evaluations, parliamentary committees and Auditor General reports. Click here to enter text.

- 6) Please provide any lessons learned, a clearer direction on related future plans, and describe efforts to achieving and/or improving these results. [Click here to enter text.](#)

**Undertake collaborative projects aimed at increasing the safety and security of cross-border assets and systems**

- 1) How did this initiative support a safe and resilient Canada? [Click here to enter text.](#)
- 2) What progress was made towards meeting this initiative? Please substantiate the performance status result above by using qualitative data, as well as any relevant metrics. Please cite and provide references, where possible. [Click here to enter text.](#)
  - Please provide information (i.e. trends and descriptive data) on this program's overall performance and on the external environment influenced by this program/initiative. The use of Performance Measurement Framework (PMF) indicators or other relevant metrics is recommended. Please cite and provide references, where possible. [Click here to enter text.](#)
- 3) Please explain further if the targets/results were not achieved. [Click here to enter text.](#)
- 4) Please discuss the impacts of any resource changes (both increases and decreases) on results. [Click here to enter text.](#)
- 5) Please provide findings and/or relevant responses to evaluations, parliamentary committees and Auditor General reports. [Click here to enter text.](#)
- 6) Please provide any lessons learned, a clearer direction on related future plans, and describe efforts to achieving and/or improving these results. [Click here to enter text.](#)

**Provide leadership and support to the Government by coordinating horizontal policy and planning for security and economic activities related to border policy, including the work to respond to the U.S. Security Flight program**


- 1) How did this initiative support a safe and resilient Canada? [Click here to enter text.](#)
- 2) What progress was made towards meeting this initiative? Please substantiate the performance status result above by using qualitative data, as well as any relevant metrics. Please cite and provide references, where possible. [Click here to enter text.](#)
  - Please provide information (i.e. trends and descriptive data) on this program's overall performance and on the external environment influenced by this program/initiative. The use of Performance Measurement Framework (PMF) indicators or other relevant metrics is recommended. Please cite and provide references, where possible. [Click here to enter text.](#)
- 3) Please explain further if the targets/results were not achieved. [Click here to enter text.](#)
- 4) Please discuss the impacts of any resource changes (both increases and decreases) on results. [Click here to enter text.](#)
- 5) Please provide findings and/or relevant responses to evaluations, parliamentary committees and Auditor General reports. [Click here to enter text.](#)
- 6) Please provide any lessons learned, a clearer direction on related future plans, and describe efforts to achieving and/or improving these results. [Click here to enter text.](#)

**Exchange best practices on citizen engagement and countering violent extremism, including examining potential areas of cooperation for international security sector capacity building**

- 1) How did this initiative support a safe and resilient Canada? The exchange of information and best practices, including the identification of collaborative opportunities with the United States in preventing and countering violent extremism, supports the Department's mandate of a safe and resilient Canada.
- 2) What progress was made towards meeting this initiative? Please substantiate the performance status result above by using qualitative data, as well as any relevant metrics. Please cite and provide references, where possible. In May 2011, the Department convened a Canada-United States Countering Violent Extremism Working Group meeting. This Working Group meets regularly to share information and best practices and collaborate on projects, in order to advance mutual interests, learn from each other's experiences and implement joint projects that address cross-border threats. This event was not only successful in the sharing of relevant and up to date information between counterparts, but it resulted in the development of a work plan that will deliver on one of the commitments of the Beyond the Border Action Plan.
  - Please provide information (i.e. trends and descriptive data) on this program's overall performance and on the external environment influenced by this program/initiative. The use of Performance Measurement Framework (PMF) indicators or other relevant metrics is recommended. Please cite and provide references, where possible. [Click here to enter text.](#)
- 3) Please explain further if the targets/results were not achieved. [Click here to enter text.](#)
- 4) Please discuss the impacts of any resource changes (both increases and decreases) on results. [Click here to enter text.](#)
- 5) Please provide findings and/or relevant responses to evaluations, parliamentary committees and Auditor General reports. [Click here to enter text.](#)
- 6) Please provide any lessons learned, a clearer direction on related future plans, and describe efforts to achieving and/or improving these results. . In 2012-13, this Working Group will reconvene to further develop partnerships and implement the work plan on countering violent extremism under the Beyond the Border Action Plan.



## INTERNAL SERVICES

 Please refer to pages 29-30 of the 2011-12 Report on Plans and Priorities for a complete list of activities and commitments.

### **Performance Summary**

**Reinforce the mission, vision and values by integrated consideration of its statement into daily activities; open dialogue sessions between managers/employees; distribute promotional products**

- 1) How did this initiative support a safe and resilient Canada? [Click here to enter text.](#)
- 2) What progress was made towards meeting this initiative? Please substantiate performance by using qualitative data, as well as any relevant metrics. Please cite and provide references, where possible. [Click here to enter text.](#)
  - Please provide information (i.e. trends and descriptive data) on this program's overall performance and on the external environment influenced by this program/initiative. Any relevant metrics can be used. Please cite and provide references, where possible. [Click here to enter text.](#)
- 3) Please explain further if the targets/results were not achieved. [Click here to enter text.](#)
- 4) Please discuss the impacts of any resource changes (both increases and decreases) on results. [Click here to enter text.](#)  
[Click here to enter text.](#)
- 5) Please provide findings and/or relevant responses to evaluations, parliamentary committees and Auditor General reports. [Click here to enter text.](#)
- 6) Please provide any lessons learned, a clearer direction on future plans, as well as efforts to achieving and/or improving these results. [Click here to enter text.](#)

### **Undertake international engagements necessary to fulfill its commitments and operational priorities**

- 1) How did this initiative support a safe and resilient Canada? [Click here to enter text.](#)
- 2) What progress was made towards meeting this initiative? Please substantiate performance by using qualitative data, as well as any relevant metrics. Please cite and provide references, where possible. [Click here to enter text.](#)
  - Please provide information (i.e. trends and descriptive data) on this program's overall performance and on the external environment influenced by this program/initiative. Any relevant metrics can be used. Please cite and provide references, where possible. [Click here to enter text.](#)
- 3) Please explain further if the targets/results were not achieved. [Click here to enter text.](#)
- 4) Please discuss the impacts of any resource changes (both increases and decreases) on results. [Click here to enter text.](#)  
[Click here to enter text.](#)
- 5) Please provide findings and/or relevant responses to evaluations, parliamentary committees and Auditor General reports. [Click here to enter text.](#)
- 6) Please provide any lessons learned, a clearer direction on future plans, as well as efforts to achieving and/or improving these results. [Click here to enter text.](#)

### **Advance domestic public safety priorities through international partnerships and capacity building initiatives**

- 1) How did this initiative support a safe and resilient Canada? [Click here to enter text.](#)
- 2) What progress was made towards meeting this initiative? Please substantiate performance by using qualitative data, as well as any relevant metrics. Please cite and provide references, where possible. [Click here to enter text.](#)
  - Please provide information (i.e. trends and descriptive data) on this program's overall performance and on the external environment influenced by this program/initiative. Any relevant metrics can be used. Please cite and provide references, where possible. [Click here to enter text.](#)
- 3) Please explain further if the targets/results were not achieved. [Click here to enter text.](#)
- 4) Please discuss the impacts of any resource changes (both increases and decreases) on results. [Click here to enter text.](#)  
[Click here to enter text.](#)
- 5) Please provide findings and/or relevant responses to evaluations, parliamentary committees and Auditor General reports. [Click here to enter text.](#)
- 6) Please provide any lessons learned, a clearer direction on future plans, as well as efforts to achieving and/or improving these results. [Click here to enter text.](#)



## **Background information on existing review bodies**

### **1. Office of the Communications Security Establishment Commissioner (OCSEC)**

Three key functions of OCSEC:

- a) reviewing CSEC activities to ensure they comply with the law
- b) conducting any investigations deemed appropriate in response to complaints about CSEC
- c) informing the Minister of National Defence and the Attorney General of Canada of any CSEC activities that OCSEC believes may not be in compliance with the law

Four purposes of OCSEC reviews:

- a) to ensure activities conducted by CSEC under ministerial authorizations are those authorized by the Minister of Defence
- b) to ensure CSEC complies with the law and only directs its activities at foreign entities located outside Canada
- c) to ensure that, in all activities CSEC undertakes, it effectively applies satisfactory measures to protect the privacy of Canadians
- d) to report results of reviews to the Minister of Defence

Status: independent and separate body from the Department of Defence

Powers: Commissioner has all the powers of a commissioner under Part II of the *Inquiries Act*

Funding: OCSEC has its own parliamentary appropriation from Parliament since April 1, 2009 [in latest Annual Report – 2010-11: \$1,605,422]

Selection and prioritization of reviews: using a set of detailed criteria to help determine where the risk is the greatest for potential non-compliance with the law and for risks to privacy:

- a) controls placed on the activity to ensure compliance with legal, ministerial and policy requirements
- b) whether the activity involves private communications or information about Canadians
- c) whether the activity is new or how much time has passed since the last in-depth review of an activity
- d) whether there have been significant changes to the authorities or technologies relating to the activity
- e) whether Commissioners have made findings or recommendations relating to the activity which require follow-up
- f) issues arising in the public domain

CSEC activities are assessed against a standard set of criteria:

- a) legal requirements: whether the activities were conducted in accordance with the *National Defence Act*, the *Privacy Act*, the *Criminal Code*, the *Charter* and any other relevant legislation, and in accordance with advice from the Department of Justice
- b) ministerial requirements: whether activities were conducted in accordance with ministerial direction, following all requirements and limitations set out in a ministerial authorization or directive
- c) policies and procedures: expectation that CSEC has appropriate policies and procedures in place to guide its activities and to provide sufficient direction on legal and ministerial requirements and protection of Canadians (i.e. whether employees know and comply with these policies and procedures)

When conducting reviews, OCSEC has access to all written and electronic records, including CSEC's policies and procedures and legal advice received from the Department of Justice. In addition, OCSEC can request briefings and demonstrations of specific activities, can interview managers and employees, and can observe firsthand CSEC operators and analysts to verify how they conduct their work. OCSEC can also test the information it obtained against the contents of CSEC systems and databases. The work of CSEC internal auditors and evaluations can also inform OCSEC reviews.

If CSEC disagrees with a recommendation made by OCSEC, it will have to provide a rationale for why it chose to do so. If this happens, OCSEC will assess the reasons provided by CSEC to determine whether to accept the reasons or to pursue the issue.

*Recurrent theme: need to amend the National Defence Act to clarify ambiguities relating to foreign intelligence ministerial authorizations*

- currently, CSEC's foreign intelligence ministerial authorizations are broadly written and apply to methods of collection rather than to individuals. However, Commissioners have been of the view that it is not clear that the *National Defence Act* supports such an approach
- Pending amendments, OCSEC uses an interim solution of using a qualified opinion based on the Department of Justice's interpretation of the Act. However, Commissioners have noted that they disagreed with that interpretation in certain important respects.
- Amendments would be required to, among other things, clarify the term "activity or classes of activities" and to include a definition of the terms "intercept" and "interception"

On the O'Connor report:

- No obstacles, legal or otherwise, were identified as not allowing cooperation among review bodies.

## **2. Commission for Public Complaints against the RCMP**

[Bill C-42 proposes to re-name the Commission as follows: the Civilian Review and Complaints Commission for the Royal Canadian Mounted Police. It will be composed of a Chair and no more than four other members]

Mandate of the CPC:

- receive complaints from the public about the conduct of RCMP members
- conduct reviews when complainants are not satisfied with the RCMP's handling of their complaints
- hold hearings and carry out investigations
- report its findings and make recommendations

Status: Independent body established in 1988

Chair is a full-time member of the CPC and the other members may be appointed as full-time or part-time members

Powers: more limited than SIRC's powers (i.e. does not have access to all information but for Cabinet confidences, does not have a general power to summon witnesses and to subpoena evidence and it does have the ability, where appropriate, to hold hearings in private)

Funding: \$6,846,000 in fiscal year 2010-11

- \$4,249,000 in salaries

The CPC seeks to examine policies, procedures and guidelines which inform or influence the individual member's conduct complained of, and to identify gaps or deficiencies in these instruments. The CPC's aim is not punitive in nature, but rather seeks to provide guidance to the member(s) so as to diminish the likelihood of such an incident to reoccur

FY 2008-09 was the first year the CPC was operating with its complaint intake and review functions integrated into one unit

- this allowed the CPC to be more attuned to the needs of the Canadian public and thus better able to identify and respond to emerging trends related to police oversight

Complaints: they can be lodged either to the RCMP or the CPC (historically, the CPC was only aware of complaints lodged directly with it; however, the RCMP has recently given access to the CPC to all complaints lodged with the RCMP) [In FY 2009-10, the CPC received 3,764 contacts, which resulted in 1,787 enquiries, 175 alternative dispute resolutions, and 1,802 complaints.]

1) If lodged with the RCMP:

- The RCMP will investigate the complaint and report back to the complainant.

- 2) If lodged with the CPC: [in FY 2009-10, 70% of complaints were lodged with the CPC]
- the complainant is provided with same-day access to an experienced CPC analyst who then assesses the needs of that person and identified possible options for a way to address their concerns. There are three avenues to resolving these situations:
    - *enquiries*: may include requests for information about police authority, obtaining assistance in furthering an investigation or gaining an understanding of the role of Crown counsel. This alternative measure appreciably decreases the demands placed on the complaint function.
    - *alternative dispute resolution*: CPC analysts serve as objective intermediaries to assist with conflict resolution between the public and the RCMP, when appropriate [N.B. statutory offence allegations or those alleging excessive use of force or other serious matters are not considered appropriate for this option.]
    - *formal complaints*: when a complaint is filed with the CPC, an analyst works with the complainant to define the nature of the allegations and to formalize the complaint. The complaint is then sent to the RCMP for investigation.

Dissatisfaction with RCMP investigation: if the complainant is dissatisfied with the outcome of an RCMP investigation into the complaint, the complainant has the right to request that the CPC independently review the propriety of conduct and the RCMP's handling of the complaint. Upon receiving a request for review, the CPC will:

- request all relevant information regarding the complaint
- analyze and examine the information provided by both the complainant and the RCMP
  - if the CPC is not satisfied with materials provided by the RCMP, and if it believes that not all of the complainant's concerns have been adequately addressed, the CPC can either: (1) request additional information; (2) conduct an investigation or request that the RCMP further investigate the complaint; and/or (3) initiate an investigation in the public interest.
- issue a report making findings and recommendations aimed at improving RCMP conduct, policies and procedures.

If the CPC is satisfied with the actions of the RCMP and the manner in which it addressed the complaint, the CPC will issue a "Satisfied Report". However, if it is not satisfied, the CPC will issue an "Interim Report" outlining its findings and recommendations to the Commissioner of the RCMP and the Minister of Public Safety.

CPC recommendations: the CPC may make recommendations that:

- address members' individual conduct
- address members' behaviour for an entire detachment or unit
- address deficiencies in a divisional (provincial) policy
- address a deficiency in an RCMP-wide policy

Steps of "Interim Reports":



- 1) CPC provides copies of the "Interim Report" to the Commissioner of the RCMP and to the Minister of Public Safety
- 2) The RCMP will prepare a response – the Commissioner's notice – in which he describes what action the RCMP has taken or will take in light of the findings and recommendations
- 3) The CPC then prepares its final report which is sent to the complainant and to the members involved. In this report, the CPC may make recommendations that address individual member conduct or broader policy issues.
- 4) in FY 2010-11: 79% of review reports: Satisfied Reports
- 5) in FY 2009-10, the RCMP Commissioner accepted 82% of the CPC's recommendations, and agreed with 89% of adverse findings

Chair-initiated complaints: The Chair may initiate a complaint if he is satisfied that there are reasonable grounds to do so. This can occur when the Chair becomes aware of the conduct of any RCMP member and, based on the information available, considers there are reasonable grounds to investigate that conduct – this will lead to a public interest investigation (e.g. examination of the death of Robert Dziekanski at Vancouver airport)

- value-added: the ability to self-initiate reviews allow the CPC to broaden its scope of review beyond what may have been articulated by individual complainants, leading to the identification of systemic issues that may not otherwise be adequately explored
- focused on issues that are of particular concern to the public
- the CPC will appoint its own independent lead civilian investigation rather than having the complaint investigated by the RCMP
- findings and recommendations are reported to the RCMP Commissioner and to the Minister of Public Safety

Government request: The Minister of Public Safety can also request a review on a given issue (e.g. 2007 and RCMP protocols on the use of Tasers and their implementation)

The CPC has the ability to work with provincial police review bodies.

Recurrent theme: need to enhance the regime for civilian review of the RCMP activities. In the 2008-09 Annual Report, the Chair of the CPC has a long list of what a credible oversight body requires:

- access to all relevant information as of right, possess the power to summon witnesses, take evidence under oath and to subpoena documents, short of calling a potentially very expensive public interest hearing
- examine specific activities and programs at the RCMP and at the Chair's discretion
- report on RCMP follow-up action on the CPC's recommendations
- monitor and report on RCMP activities in respect of public complaints
- work collaboratively, as appropriate, with other oversight bodies at both the federal and provincial levels

- provide to appropriate provincial and territorial ministers the CPC's decisions and other reports dealing with the performance of the RCMP in their respective jurisdiction
- provide on an annual basis, to the Minister of Public Safety and the appropriate provincial or territorial Ministers, statistical information relative to the conduct of RCMP members in their jurisdiction
- provide to the Minister of Public Safety special reports as required

"No wrong door" approach to civilian oversight in Canada: in the 2009-10 Annual Report, the CPC noted that it continued to work diligently with its provincial partners to harmonize police oversight processes to the extent possible under existing law. A critical aspect of this effort to harmonize is to streamline the intake process so that complaints about the police can be accepted no matter which agency they belong to. The goal is to minimize the frustration felt on the part of the public.

#### On Bill C-42

*Powers:* proposed enhanced powers, including:

- broader access to RCMP information to help it perform its duties, subject to safeguards
- enhanced investigative powers, including the authority to summon and compel witnesses to give evidence
- the ability to conduct joint investigations and share information with other police review bodies
- the ability to conduct policy reviews to determine the RCMP's compliance with legislation and regulations, as well as policies, procedures, guidelines and Ministerial Directives
- the authority to appoint civilian observers to assess the impartiality of criminal investigations if serious incidents involving the RCMP or, with the approval of the relevant provincial authority, when the investigation is being done by the RCMP or another police force.

*Findings and recommendations:* when conducting reviews, the Commission can make findings and recommendations as it sees fit regarding:

- whether the activities of the RCMP are carried out in accordance with the RCMP Act or the WPP Act, any regulations or ministerial directions made under them or any policy, procedure or guideline relating to the operation of the RCMP
- the adequacy, appropriateness, sufficiency or clarity of any policy, procedure or guideline relating to the operation of the RCMP

*Access to information:* entitled to have access to any information under the control, or in the possession, of the RCMP that the Commission considers relevant and necessary when conducting a review. If the RCMP refuses to give access to privileged information, the RCMP must indicate why this information is not relevant and necessary. If necessary, a former judge can adjudicate. Privileged information includes:

- solicitor-client privilege, or information privilege

- information that reveals or from which may be inferred the location or a change of identity of a protectee under the WPP Act, or a former protectee
- information that compromises the integrity of the WPP, including certain information about the means or methods used in that program and information about the identity or role of a person who provides or, directly or indirectly, assists in providing protection under that program
- special operational information as defined in subsection 8(1) of SOIA
- information or intelligence that is similar in nature to information or intelligence referred to in any of paragraphs (a) to (f) of subsection 8(1) of SOIA and that is in relation to, or is received from, any police force or Interpol or other similar international police organization, and
- medical information about a member or other person appointed or employed under the authority of Part I

## Security Intelligence Review Committee

Purpose of SIRC: to ensure security intelligence in Canada is conducted appropriately, affectively and lawfully, in protecting Canada and its citizens

Standards: to ensure that CSIS performs its duties and functions in accordance with the law, policy and Ministerial Direction

Status: independent and separate review body reporting to Parliament

Powers and access to information: SIRC has full access to any information under CSIS's control, with the sole exception being Cabinet confidences (i.e. no matter how highly classified the information may be)

Funding (FY 2010-11): \$2,690,000 (with \$2,050,000 in personnel)

### Reviews

In deciding which matters to review, SIRC considers:

- events or developments with the potential to represent threats to the security of Canada
- intelligence priorities identified by the Government of Canada (2010-11 Annual Report)
  - in the 2009-10 Annual Report, this was spelt out as follow: "priorities and concerns identified by Parliament or in the public domain"
- activities by CSIS that could have an impact on individual rights and freedoms
- issues identified in the course of SIRC's complaints functions
- new directives and initiatives announced by or affecting CSIS
- the CSIS Director's annual classified report submitted to the Minister of Public Safety

Each review is a snapshot of CSIS's past actions in a specific case. This allows SIRC to manage the risk inherent in being able to review only a small number of CSIS activities in any given year.

When conducting a review, SIRC has access to individual and group targeting files, human source files, intelligence assessments and warrant documents. It can also examine files relating to CSIS's cooperation and operational exchanges with foreign and domestic agencies and partners, among other sources that may be review-specific. SIRC can also arrange briefings with CSIS employees. SIRC's goal is to look at a diverse pool of information to ensure that it has thoroughly reviewed and completely understood the issues at hand.

All reviews include findings and, where appropriate, recommendations for CSIS and for the Minister of Public Safety. SIRC may also provide reports directly to the Minister of Public Safety on any matter which SIRC identifies as having special importance, or which the Minister asks SIRC to undertake. Through non-binding, over the years,

SIRC's recommendations have contributed to making CSIS a better and more accountable organization.

### Complaints

(In FY 2010-11: total of 48 complaints; in FY 2009-10: 54, in FY2008-09: 45)

- 1) The complaint process begins as inquiries to SIRC, either in writing, in person or by phone.
- 2) Once a written complaint is received, SIRC staff advise a prospective complainant about what the *CSIS Act* requires to initiate a formal complaint
- 3) Once a formal complaint is received in writing, SIRC conducts a preliminary review, which can include any information that might be in CSIS's possession, except Cabinet confidences. Where the complaint does not meet certain statutory requirements, SIRC declines jurisdiction and the complaint is not investigated.
- 4) If jurisdiction is established, the complaint is investigated through a quasi-judicial hearing presided over by one or more Committee members, assisted by staff and SIRC's legal team which will provide legal advice to members on procedural and substantive matters
- 5) The *CSIS Act* provides that SIRC hearings be conducted "in private". All parties have the right to be represented by counsel and to make representations at a hearing, but no one is entitled as of right to be present during, to have to, or to comment on, representations made to SIRC by any other person.
  - a. A party may request an *ex parte* hearing to present evidence which, for reasons of national security or other reasons considered valid by SIRC, cannot be disclosed to the other party or their counsel. During such hearings, SIRC's legal team will cross-examine witnesses to ensure the evidence is appropriately tested and reliable, in order to provide the presiding Member with the most complete and accurate factual information relating to the complaint
  - b. Once the *ex parte* portion of the hearing is completed, SIRC will determine whether the substance of the evidence can be disclosed to the excluded parties. If so, SIRC will prepare a summary of evidence and provide it to the excluded parties once it has been vetted for national security purposes
- 6) When investigating a complaint under section 41 (i.e. "any act or thing done by the Service"), a report is provided to the CSIS Director, to the Minister of Public Safety, and a declassified version of the report is provided to the complainant
- 7) When investigating a complaint under section 42 (i.e. denials of security clearances), a report is provided to the CSIS Director, to the Deputy Head concerned, and a declassified version to the complainant

SIRC has jurisdiction over complaints made under section 41 if:

- 1) the complainant first complained in writing to the CSIS Director and did not receive a response within a reasonable period of time (approximately 30 days), or the complainant is dissatisfied with the response
- 2) SIRC is satisfied that the complaint is not trivial, frivolous, vexatious or made in a bad faith

[N.B. SIRC cannot investigate a complaint that can otherwise be addressed under existing grievance procedures of the *CSIS Act* or the *Public Service Labour Relations Board*.]

SIRC has jurisdiction over complaints made under section 42 if:

- 1) the person was refused federal employment because of the denial of a security clearance
- 2) any federal employee is dismissed, demoted, transferred or denied a transfer or promotion for the same reason
- 3) anyone was refused a contract to supply goods or services to the government for the same reason.

[N.B. These complaints must be filed within 30 days of the denial of a security clearance. SIRC has the possibility of extending that period of time if valid reasons are presented.]

#### Reviews versus complaints

- 1) A review is initiated by SIRC and entails in-depth research and analysis of CSIS's performance in carrying out its duties and functions as described in the *CSIS Act*, culminating in a report. Research and reports constitute SIRC's review function.
- 2) A complaint investigation is initiated by an individual or group who may make a complaint to SIRC with respect to:
  - a. "any act or thing done by the Service" (section 41)
  - b. denials or revocations of security clearances to government employees or contractors (section 42)
  - c. referrals from the Canadian Human Rights Commission
  - d. Minister's reports in regards to the *Citizenship Act*

A complaint investigation is conducted as part of a quasi-judicial process.

#### SIRC follow-up

SIRC follows up with CSIS by requesting a status report on the recommendations arising from the previous year's reviews and complaints decisions. Through this follow-up, SIRC can track the implementation of recommendations and learn about the practical impact of those recommendations on CSIS. This process also allows CSIS to respond formally to SIRC's reviews and decisions, thereby contributing to the ongoing discussion between SIRC and CSIS.

#### SIRC as an organization

- SIRC membership: 5, including a Chair, who are Privy Councillors and are given access to highly classified government information
- Committee Members are supported by an Executive Director, and an authorized staff complement of 20, located in Ottawa
- Committee Members provide staff with direction on research and other activities that are identified as a priority for the year
- The management of day-to-day operations is delegated to the Executive Director with direction, when necessary, by the Chair
- In addition to attending regular committee meetings, members preside over complaint hearings. Review and complaint reports are prepared in consultation with SIRC staff. Members also visit CSIS regional offices, appear before

parliamentary committees and exercise other duties associated with their responsibilities.

### Retooling SIRC

In 2010-11 Annual Report, SIRC is of the view that independent review of Canada's national security activities could be enhanced by retooling SIRC, which could be achieved without major legislative amendments, expense or restructuring. This would allow for a proportionate yet effective system of broad and independent review for national security (while being cost-effective). It would also help alleviate public concerns regarding Canada's existing system of national security accountability.

- SIRC proposal: to allow SIRC to examine the actions of other federal entities when they connect with, or relate to, CSIS. This would allow for more comprehensive reviews of CSIS's information sharing and interactions with domestic partners.
- How: SIRC – at the request of the Minister of Public Safety and with the concurrence of the appropriate Minister – would be allowed to undertake a national security review of an agency or agencies other than CSIS

Why is change needed? Because the system of checks and balances has not kept pace with enhanced operational cooperation (i.e. it still ensures accountability of individual agencies). Existing review mechanisms are not equipped or configured to examine fully Canada's increasingly integrated national security activities. Furthermore, many departments and agencies involved in national security are not subject to any form of independent review.

- The key question here: do those departments and agencies warrant permanent, independent and ongoing review? While they have the potential to have an impact on individuals, SIRC is of the view that their powers do not compare to CSIS's capacity to collect intelligence in secrecy. Accordingly, SIRC questions whether they require the same level of permanent and independent review.

QUESTION PERIOD NOTE

Date: DATE THE DOCUMENT IS SENT

Classification: UNCLASSIFIED

Branch / Agency: Public Safety

## Question Period Note

### REVIEW OF NATIONAL SECURITY ACTIVITIES

ISSUE: (Arial 12) (To include)

#### BACKGROUND:

Over the years, many stakeholders, including the Auditor General, Commissioners and Parliamentarians, have identified gaps in the national security review framework. They have all pointed to the varying levels of review that exist within the security and intelligence community and have observed that there is no single organization with the mandate to review departments and agencies that are working in an integrated fashion. Most notably, in 2006, the *Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar* (O'Connor Commission) released its final report, which recommended ways to improve the review of the RCMP's national security activities as well as the review of national security matters more broadly.

Part I of the O'Connor Commission's final report made 23 recommendations. The Government accepted all recommendations and took immediate action to address them. With the tabling of Bill C-42, *Enhancing Royal Canadian Mounted Police Accountability Act*, the Government has followed through on that commitment. Bill C-42 proposes to replace the existing Commission for Public Complaints against the Royal Canadian Mounted Police (CPC) with the proposed Civilian Review and Complaints Commission (CRCC). The CRCC will have the same powers of the former CPC along with new powers and authorities to carry out its mandate, including broader access to RCMP information (subject to safeguards) and the ability to conduct policy reviews.

In the meantime, the Government has been exploring options to address the O'Connor Commission's observations related to national security review. In December 2010, in response to the *Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182*, the Government committed publicly to "enable[ing] the review of national security activities involving multiple departments and agencies" in the *Air India Inquiry Action Plan* (Action Plan). In the July 2011 Progress Report on the status of the Action Plan's implementation, the Government noted that it continued to work to develop options that would deliver effective and robust review and accountability without undermining departments and agencies' operations or their capacity to protect Canada and Canadians. The Progress Report also recognized the importance of review in maintaining public confidence in the Government's national security activities.



## REVIEW OF NATIONAL SECURITY ACTIVITIES

### PROPOSED RESPONSE:

- **The Government recognizes the importance of independent review in maintaining Canadians trust in the Government's national security activities.**
- **As a result, the Government committed to "enabling the review of national security activities involving multiple departments and agencies" in the Air India Inquiry Action Plan.**
- **Since then, the Government continues to develop options that would deliver effective and robust review and accountability without undermining departments and agencies' operations or their capacity to protect Canada and Canadians.**

### If asked about the O'Connor Commission's recommendations

- **With the tabling of Bill C-42, *Enhancing Royal Canadian Mounted Police Accountability Act*, the Government has implemented the 23 recommendations made by the O'Connor Commission.**
- **Bill C-42 proposes to provide new powers and authorities to the Civilian Review and Complaints Commission, which would replace the existing Commission for Public Complaints against the RCMP. This would include broader access to RCMP information (subject to safeguards) and the ability to conduct policy reviews.**

### CONTACTS:

Prepared by	Tel. no.	Approved by (ADM level only)	Tel. no.
John Davies	613-991-1970	Lynda Clairmont	613-990-4976

**Standing Committee on Public Safety and National Security (SECU)**  
**Consideration of Bill C-42**  
**Highlights of Hearings**

**Section 1: Key Testimonies**

*Views of the Commission for Public Complaints against the RCMP (interim Chair)*

Overall, the CPC welcomes the enhanced powers and the modest increase in funding of Bill C-42. However, the CPC presented four areas of concern:

1. The interim Chair of the CPC is concerned that Bill C-42 provides the staff of the CRCC with immunity while not extending the same immunity to the CRCC Chair. In his opinion, this immunity should also extend to the Chair.
2. The CPC is concerned that the independence of the CRCC will be lost if it cannot control when an investigation may occur. The CPC relied on the following example: if the RCMP Commissioner (or his delegate) determines that an investigation of a complaint that is considered by the CRCC to be in the public interest should not proceed, the CRCC is not truly independent (i.e. it does not control what and when to review).
3. While Bill C-42 requires the Commission to protect privileged information, the CPC is concerned that the bill does not require the RCMP to clearly identify what information is privileged. Given that it may not always be obvious for the CRCC which information is privileged, the CPC is of the opinion that the RCMP should be required to identify those portions that are considered privileged.
4. Recognizing the importance of timely reviews, the CPC self-imposed time limits on itself for all steps of the complaint process. Bill C-42 codifies the requirement on the CRCC to establish such time lines (s. 45.37). However, the CPC is concerned that Bill C-42 does not impose this same requirement for service standards respecting time limits on the RCMP.

*Views of Paul Kennedy*

Paul Kennedy presented four areas of concern in Bill C-42:

1. Paul Kennedy emphasized that to be effective and credible, a review body must have access as of right to all information it deems relevant and necessary. If it is not provided with all information, the review body will be kept in the dark given that it will not have a comprehensive picture of what transpired. Bill C-42 proposes a scheme whereby privileged information may not be disclosed to the CRCC. In his opinion, this scheme is a direct repudiation of recommendations stemming from the O'Connor Commission of Inquiry and the Brown Task Force.

It also fails to take into account the potential for abuse of claims by the RCMP of privileged information as was the case during the Air India Commission of Inquiry. Essentially, the CRCC should have access to the same information as SIRC has to CSIS information.

2. Bill C-42 imposes a duty on the CRCC to suspend an investigation, review or hearing if requested to do so by the Commissioner of the RCMP if the investigation, review or hearing would compromise or seriously hinder an ongoing criminal investigation or proceeding (s. 45.74(2)). As a result, the CRCC will lose its credibility if it is required to suspend a review by the organization over which it has jurisdiction.
3. While Bill C-42 imposes service standards with respect to time limits on the CRCC, a similar requirement is not imposed on the RCMP. Paul Kennedy is of the opinion that this situation should be rectified given that the timeliness of the RCMP's response has been a problem historically.
4. The Chair of the CRCC should be appointed for a fixed, non-renewable term. Ideally, the Chair should also be made an Agent of Parliament.

#### *Views of the International Civil Liberties Monitoring Group*

During his opening reports, the representative re-iterated the main observations and recommendations of the O'Connor Commission of Inquiry. He noted that the existing review bodies have different powers and their mandate directs them to review a single agency. This means that in cases of joint operations, they do not have authority to examine that operation in its entirety. Furthermore, he noted that some Government agencies do not have review bodies, such as CBSA.

The representative noted that the O'Connor Commission of Inquiry was able to successfully complete its work because it was given full powers to look at all implicated agencies, at joint operations and at information sharing agreements. He argues that if the CRCC is to do its job effectively and adequately, it must have the same powers afforded to the O'Connor Commission of Inquiry.

The representative also raised a question with regards to section 45.75, which relates to joint investigations, reviews or hearings. The section specifies that the CRCC can work with review authorities under any other jurisdiction. The representative questioned whether this was also extended to review authorities under federal jurisdiction. If it is not the case, an amendment should be made to that effect.

## Section 2: Key Questions asked by MPs and observations of those testifying

### *General*

- How will review be different under Bill C-42 than what it is now?
- How will these changes restore Canadians' confidence in the RCMP?
- Will the CRCC be able to share information and work with other federal review bodies?
- Why is the RCMP not subject to service standards with regards to time limits?
- Generally, how long does it take for the RCMP to respond to the CPC?
- Would imposing time limits on the RCMP potentially impede ongoing investigations?
- How does this proposal compare to what the O'Connor Commission of Inquiry proposed?

### *On limits to self-initiation*

- Don't the limitations to self-initiate restrict the independence of the CRCC? If it cannot choose when to initiate a review, how can it be seen as independent?
- Is it justifiable that the CRCC will not have access to the same information as SIRC does for CSIS?
- What is the impact on the CRCC's independence if it is required to stop a review if the RCMP Commissioner requests it? (i.e. because it could impair an ongoing investigation)

### *On access to information:*

- Why does the CRCC not have access to the same information as SIRC does with regard to CSIS?
- What information will the CRCC not have access to? Can you give me examples?
- What information will you now have access to as a result of Bill C-42?

### *On reporting*

- Why will the CRCC continue to report to the Minister of Public Safety rather than to Parliament? Wouldn't reporting to Parliament increase the independence of the CRCC?
- Why couldn't we make the Chair of the CRCC an Agent of Parliament?
- What are the advantages of making the Chair of the CRCC an Agent of Parliament, including in terms of independence?

### *On the CRCC's recommendations*

- Why will recommendations continue to be non-binding on the RCMP?
- Shouldn't the recommendations be made binding?
- Given that the RCMP decides whether to accept recommendations or not, how frequently does it accept them?
- Why would the RCMP choose not to accept a recommendation? Can you give me some examples?

- If the CRCC could make binding recommendations, would that make the CRCC more independent?
- What are the advantages and disadvantages to making the CRCC recommendations binding?

#### *Composition of the CRCC*

- Who will be a member of the CRCC?
- What kind of experience is necessary to be a member of the CRCC?
- Will members serve on a full-time or part-time basis?
- To work at the CRCC, do you need a background in policing?
- Would extending immunity to the Chair of the CRCC be beneficial to the Chair?

#### *On resources*

- Do you have the resources necessary to fulfill your mandate?
- Will the necessary funds be provided to the CRCC?
- How many more people would you need to adequately fulfill your mandate?

#### *On the consultations that took place on the development of Bill C-42*

- Who was consulted in the development of Bill C-42?
- Were provinces consulted?
- Were you consulted?
- Are you happy with the level of consultation that took place in the development of Bill C-42?

### **Section 3: Clause-by-clause consideration and amendments**

#### *Government amendments (all carried)*

- to extend immunity to the Chair of the CRCC
- to clarify that RCMP disciplinary issues do not fall within the CRCC's mandate
- to remove the RCMP Commissioner's ability to refuse a CRCC Chair-initiated complaint

#### *NDP amendments (all defeated)*

[Spirit of NDP amendments is to increase the CRCC's independence]

- to make the recommendations by the CRCC and External Review Committee binding on the RCMP
- to remove the limitations on the CRCC's ability to self-initiate reviews
- to remove the requirement that provincial jurisdictions have to go through the Minister of Public Safety to request a CRCC review
- to provide the CRCC with all information under the RCMP's possession so that the CRCC can make the determination as to what information is relevant

- to modify the reporting structure of the CRCC so that its Annual Report is tabled directly with the Speaker of the House of Commons, rather than through the Minister of Public Safety
- to remove the CRCC's ability to compel testimony from RCMP Members in cases where this could lead to self-incrimination
- to remove the provision that requires the CRCC to suspend a review or investigation if the RCMP Commissioner requests so in writing (in cases where it could compromise an ongoing criminal investigation)
- to impose service standards with respect to time limits on the RCMP

## 2012-2013 Supplementary Estimates (B)

### S-7 COMBATING TERRORISM ACT

#### PROPOSED RESPONSE:

- **Last fall, the Government committed to reintroducing provisions found in the former Bill C-17, relating to the reenactment of the *Anti-terrorism Act's* investigative hearings and recognizance with conditions.**
- **These proposed provisions, now contained within Bill S-7, will assist law enforcement in disrupting terrorist attacks and will bolster the complement of tools law enforcement can use in their efforts to protect Canadians.**
- **The Government believes that these proposed provisions will uphold the fundamental rights and liberties of Canadians and that they will be used judiciously.**
- **The proposed new offence for leaving Canada for the purpose of participating in or contributing to certain terrorism related activities, for example, attending a terrorist training camp, will close an important gap in the legislation.**
- **It is expected that the Public Safety Portfolio, chiefly the Royal Canadian Mounted Police and the Canadian Security Intelligence Service, will be able to fulfil their obligations under Bill S-7 through existing budgets, and that no new funding will be required.**

**QUESTIONS AND ANSWERS:**

***Investigative Hearing and Recognizance with Conditions***

**Q1 Why is the Government reintroducing the investigative hearing and recognizance with conditions? Why are they necessary?**

**A1** The investigative hearings and recognizance with conditions powers would provide police with valuable tools for investigating and preventing terrorist activity. Given the grave nature of harm posed by terrorism, there is a need to be able to act quickly and decisively to address the threat. That's why both these powers are so important. They give law enforcement officials the tools they need to compel information about a terrorism offence from a person, or have a judge impose a recognizance with conditions on a person under certain limited circumstances.

It would be a mistake to equate the lack of use of these tools in the past with there being no need for them in the future. These provisions would give law enforcement agencies access to the tools they need to investigate past and potential acts of terrorism.

***Leaving Canada for the Purpose of Committing a Terrorism Offence***

**Q2 Is attending a terrorist training camp already an offence in the *Criminal Code*?**

**A2** Yes, it is illegal to knowingly participate in the activities of a terrorist group for the purpose of enhancing the ability of a terrorist group to carry out an act of terrorism. Such activities could include receiving or providing training at a terrorist training camp. It should be noted that in 2008 Mr. Momin Khawaja was convicted of this offence for receiving training in Pakistan. His conviction was upheld by the Ontario Court of Appeal last year. The matter has been heard by the Supreme Court of Canada and the decision has been reserved.

**Q3 Why create new offences of leaving Canada for the purpose of committing a terrorism offence?**

**A3** These new measures add to the existing offence of participating in terrorist activities by criminalizing the act of leaving the country, or having the intention to do so, for the purpose of participating in or facilitating terrorist activities. It would provide the legal authority to arrest and prosecute a person who has left Canada or who is attempting to leave Canada for the purpose of, for example, attending a terrorist training camp, facilitating a terrorist activity, committing an offence for a terrorist group, etc. These new offences and the penalties for these offences would send a strong signal that such conduct is unacceptable.

***National Security Committee of Parliamentarians***

**Q4 What is the Government's position on establishing a national security committee of parliamentarians to review the legislative, regulatory, policy and administrative framework for national security in Canada, and activities of federal departments and agencies in relation to national security?**

**A4** In December 2010, in response to the *Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182*, the Government committed publicly to "enable[ing] the review of national security activities involving multiple departments and agencies." Since then, and as noted in the Air India Inquiry Action Plan's Progress Report (July 2011), the Government continues to examine and develop options that would deliver effective review and accountability without undermining departments and agencies' operations or their capacity to protect Canada and Canadians. The Progress Report also recognized the importance of review in maintaining public confidence in the Government's national security activities.

**CONTACTS:**

Prepared by  
Mr. John Davies  
Director General  
National Security Policy

Tel. no.  
991-1970

Approved by  
Lynda Clairmont  
Senior Assistant Deputy Minister  
National Security

Tel. no.  
990-4976



**SECRET**

## **SIRC and Charter Issues**

On 23 April 2012 the Federal Court issued a decision in relation to a complaint made to SIRC against CSIS by Hani Al Telbani relating to the question of whether SIRC has the jurisdiction to hear arguments and decide questions related to the *Charter*.

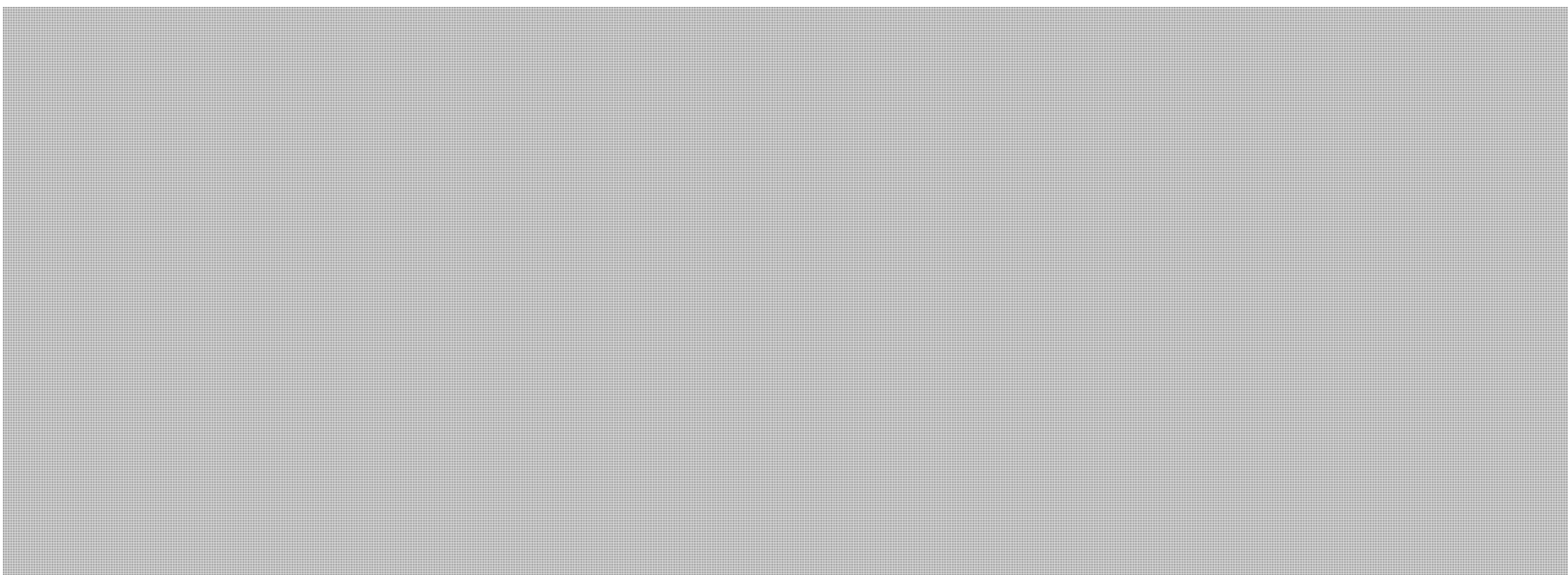
This issue was brought to the Federal Court as a result of the fact that SIRC initially determined that it did in fact have jurisdiction to hear the complaint, **but CSIS objected to SIRC's jurisdiction to deal with *Charter* arguments.** This issue was ultimately sent for judicial review, resulting in the above-noted decision.

The Court decided that:

- the CSIS Act does not grant SIRC explicit jurisdiction to decide questions of law;
- however, to carry out its mandate in fulfilling its investigative function, SIRC must decide questions of law, and SIRC is an adjudicative body that has all the attributes to decide questions of law;
- therefore, SIRC has the implied jurisdiction to decide questions of law, including on the *Charter*

A critical factor in the decision was the fact that Parliament did not exclude the *Charter* from SIRC's jurisdiction:

“The Charter has been in force since April 17, 1982, while the [*CSIS Act*] came into effect just over two years later, namely, on July 16, 1984. It does not appear anywhere in legislation that Parliament intended to exclude the application of the *Charter* from the functions of SIRC, including that of investigation. If such was its intention, Parliament could have certainly done so while the adoption of the *Charter* was still fresh in its memory.”



**SECRET//CC**

**Question 4:                   What changes should be contemplated to accommodate prior  
recommendations regarding inter-agency review?**

**1. Inquiry into the Actions of Canadian Officials in Relation to Maher Arar**

In Part II of the Commission's report (*A New Review Mechanism for the RCMP's National Security Activities*) Commissioner O'Connor made recommendations on national security and inter-agency review, including that:

- SIRC's mandate be expanded to include complaints investigations and self initiated reviews for the national security activities of CIC, DFAIT, FINTRAC, and TC;
- the new CPC's mandate be similarly expanded to include CBSA;
- the Governor in Council have the option of directing SIRC or the new CPC to review the national security activities of entities not within their mandates;
- statutory gateways between SIRC, the CPC, and the CSEC Commissioner be created to allow the three bodies to exchange of information, refer investigations, conduct of joint investigations and coordinate in the preparation of reports; and
- a committee including the chairs of SIRC and the CPC, the CSEC Commissioner and an outside person to act as committee chair, be created to:
  - ensure that the statutory gateways among the independent review bodies operate effectively;
  - take steps to avoid duplicative reviews;
  - provide a centralized intake mechanism for complaints regarding the national security activities of federal entities;
  - report on accountability issues relating to practices and trends in the area of national security in Canada, including the effects of those practices and trends on human rights and freedoms;
  - conduct public information programs with respect to its mandate, especially the complaint intake aspect; and

**SECRET//CC**

- initiate discussion for co-operative review with independent review bodies for provincial and municipal police forces involved in national security activities.

## **2. SIRC Annual Report 2010-11 and [REDACTED]**

In its 2010-11 Annual Report, [REDACTED] SIRC recommended an approach to inter-agency review that is explicitly lighter than that proposed by Justice O'Connor.

SIRC's suggest approach includes "slight" legislative adjustments to the *CSIS Act* that would:

- expand SIRC's mandate to allow for more comprehensive reviews of CSIS's information-sharing and interactions with domestic partners, and allow SIRC to examine the actions of other federal entities when they connect with, or relate to, CSIS (i.e. allowing SIRC to conduct inter-agency review when there is a nexus with CSIS);
- similarly allow SIRC to investigate pertinent information across federal departmental lines when investigating complaints made about CSIS;
- allow the Human Rights Commission to refer complaints to SIRC on any matter relating to national security (i.e. not just regarding CSIS); and
- permit SIRC—at the request of the Minister of Public Safety and with the concurrence of the appropriate Minister—to undertake a national security review of an agency or agencies other than CSIS (i.e. agency-specific review).

Notably, SIRC states that "the *CSIS Act*, which provides SIRC with the power and ability to review thoroughly every aspect of CSIS's activities and operations, is not broken".

## **3. Air India Inquiry Action Plan (December 2010)**

In the *Air India Inquiry Action Plan*, the Government committed to "Enable the review of national security activities involving multiple departments and agencies, and create an internal mechanism to ensure accountability and compliance with the laws and policies governing national security information sharing."

## Arnott, Charles

---

**From:** Slatkoff, Ari  
**Sent:** August-15-12 1:17 PM  
**To:** Arnott, Charles  
**Subject:** FW: Inter-Agency Review - [REDACTED] DRAFT - 14 Aug 2012  
**Attachments:** Inter-Agency Review - [REDACTED] DRAFT - 14 Aug 2012.doc  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Charlie, as discussed, attached is a slightly revised draft of the memo we previously gave you. We have circulated this to our Justice colleagues in the legal services units of the PSDI portfolio (CSIS, RCMP, CBSA, CSE, DND, CIC) for their comments, to ensure the Justice speaks with one voice. CSIS legal has asked whether they can share this with their clients at the Service. Can you please let me know if this would be OK? We would include the caveat that this is a draft produced by Justice that does not reflect any policy view from Public Safety. If you have any concern that this may interfere with your own consultation process, we can certainly ask counsel to keep this within Justice.

Thanks,  
Ari

---

**From:** Slatkoff, Ari  
**Sent:** August-15-12 12:20 PM  
**To:** 'Baker, Christine'; [REDACTED]; 'Barry, George'; 'Beaulieu, Marthe'; 'Bennett, Cynthia (RCMP)'; 'Bourry, Marie (CIC)'; 'Bouzigon, Mylène'; 'Chartrand-Chabot, Nathalie (CIC)'; 'Colaianni, Anna'; 'Colton, Loretta'; 'Duffy, Michael'; 'Eid, Elisabeth'; 'Fobes, Caroline'; 'Forget, Maryse (DND)'; 'Gendron, Caroline'; 'Gervais, Michèle'; 'Goodwin, Cynthia'; 'Harvey, Jolene'; 'Lefebvre, Manon (CBSA)'; 'Longo, Liliana (RCMP)'; 'Lovett, Lynn'; 'Moore, Karen'; 'Normand, Gerard (DND)'; [REDACTED]; 'Roy, Christian (RCMP)'; 'Scrivens, Mark'; 'Shuttle, Paul'; 'Slatkoff, Ari'; 'Taylor, Leigh (CBSA)'; 'Therrien, Daniel'; 'Tilhoff, Tanya'  
**Cc:** Lajeunesse, Stephen  
**Subject:** Inter-Agency Review - [REDACTED] DRAFT - 14 Aug 2012

Colleagues, as mentioned on Monday's PSDI NS conference call, please find attached a draft memorandum outlining [REDACTED]. We would appreciate if you could provide any comments by next Friday, August 24.

Thank you,

Ari Slatkoff  
Team Leader and Senior Counsel | Chef d'équipe et avocat-conseil  
Public Safety Legal Services | Sécurité publique services juridiques  
Department of Justice Canada | Ministère de la Justice Canada  
269 Laurier Street West, 16A-1500 | 269, rue Laurier ouest, 16A-1500  
Ottawa (Ontario) K1A 0P8  
[ari.slatkoff@ps-sp.gc.ca](mailto:ari.slatkoff@ps-sp.gc.ca)  
Telephone | Téléphone (613) 991-2882  
Facsimile | Télécopieur (613) 990-8307  
Government of Canada | Gouvernement du Canada

s.15(1) - Subv  
s.23

*This communication contains information that may be confidential, exempt from disclosure, subject to litigation privilege or protected by the privilege that exists between lawyers or notaries and their clients. If you are not the intended recipient,*

*you should not read, rely on, retain, or distribute it. Please delete or otherwise destroy this communication and all copies of it immediately, and contact the sender at 613-991-2882 or by email at [ari.slatkoff@ps.qc.ca](mailto:ari.slatkoff@ps.qc.ca). Thank you.*

*Ce message contient des renseignements qui pourraient être confidentiels, soustraits à la communication, ou protégés par le privilège relatif au litige ou par le secret professionnel liant l'avocat ou le notaire à son client. S'il ne vous est pas destiné, vous êtes priés de ne pas le lire, l'utiliser, le conserver ou le diffuser. Veuillez sans tarder le supprimer et en détruire toute copie, et communiquer avec l'expéditeur au 613-991-2882 ou à [ari.slatkoff@ps.qc.ca](mailto:ari.slatkoff@ps.qc.ca). Merci de votre collaboration.*

**Pages 62 to / à 91  
are withheld pursuant to section  
sont retenues en vertu de l'article**

**23**

**of the Access to Information  
de la Loi sur l'accès à l'information**