



Public Safety / Sécurité publique
Canada / Canada

Deputy Minister / Sous-ministre

Ottawa, Canada
K1A 0P8

SECRET

DATE: ^{AUG} 30 2011

File No.: 6915-8 / 21112 / 378713

MEMORANDUM FOR THE MINISTER

**MINISTERIAL DIRECTION ON
INFORMATION SHARING WITH FOREIGN ENTITIES**

(Signature Required)

ISSUE

New Ministerial Direction (MD) to the Canada Border Services Agency (CBSA) and the Royal Canadian Mounted Police (RCMP) on sharing information with foreign agencies.

BACKGROUND



CONSIDERATIONS

In order for the Framework to come into effect, it must be issued to CBSA and RCMP as an MD (**Tab B**).

You approved an identical version of this MD on "Information Sharing with Foreign Entities" to the Canadian Security Intelligence Service on July 28, 2011 (**Tab C**).



s.69(1)(g) re (c)
s.69(1)(g) re (e)

s.23

RECOMMENDATION

It is recommended that you approve the MD on "Information Sharing with Foreign Entities" by signing and dating the enclosed letter to the President of the CBSA (**Tab D**), and to the Commissioner of the RCMP (**Tab E**).

Should you require additional information, please do not hesitate to contact me or Lynda Clairmont, Assistant Deputy Minister, Emergency Management and National Security, at 990-4967.

A handwritten signature in cursive script, appearing to read "William V. Baker". The signature is written in black ink and is positioned above the printed name.

William V. Baker

Enclosures: (5)

Prepared by: Darryl Hirsch

Framework for Addressing Risks of Mistreatment in Sharing Information with Foreign Entities¹

- Sharing information with foreign entities is necessary in order to respond to national security threats. It is essential that Canadian intelligence and law enforcement authorities are able to maintain strong relationships with foreign entities, and can share information with them on both a routine and an urgent basis.
- Deputy Ministers and Agency Heads have been delegated the responsibility for making decisions with respect to the sharing of information with foreign entities.² Departments and agencies must carefully manage relationships with foreign entities, assisted by policies that guide information sharing practices, to ensure that the sharing of information does not give rise to a substantial risk of mistreatment.

Objective

- The following Framework forms part of the suite of directives and policies that govern departments' and agencies' information sharing practices. The objective is to establish a coherent and consistent approach across the Government of Canada in deciding whether or not to send information to, or solicit information from, a foreign entity when doing so may give rise to a substantial risk of mistreatment of an individual.

Canada's Obligations

- The Government of Canada opposes in the strongest possible terms the mistreatment of any individual by any foreign entity for any purpose. The Government also has a duty to its own citizens and to its allies to prevent individuals engaging in threat related activities from causing harm, whether in Canada or in a foreign country.
- The Government of Canada does not condone the use of torture or other unlawful methods in responding to terrorism and other threats to national security. The Government is committed to pursuing a principled and proportionate response to these threats, while promoting and upholding the values Canada seeks to protect.
- Canada is a party to a number of international agreements that prohibit torture and other forms of cruel, inhuman, or degrading treatment or punishment. These include the *International Covenant on Civil and Political Rights* and the *Convention Against Torture (CAT)*. The *CAT* requires state parties to criminalize all instances of torture, and to take effective measures to prevent torture and other cruel, inhuman, or degrading treatment or punishment in any territory under their jurisdiction.

¹ This Framework would not change existing legal authorities for sharing information with foreign entities. Although the term, foreign entity, has not been formally defined, it primarily refers to foreign government agencies and militaries. The term may also refer to military coalitions, alliances, and international organizations.

² For the purpose of this Framework, Deputy Minister also includes the Chief of Defence Staff.

SECRET

- Torture is a criminal offence in Canada that has extraterritorial application. The *Criminal Code*'s provisions governing secondary liability also prohibit aiding and abetting the commission of torture, counselling the commission of torture whether or not the torture is committed, conspiracy to commit torture, attempting to commit torture, and being an accessory after the fact to torture.
- More broadly, section 7 of the *Canadian Charter of Rights and Freedoms* guarantees that "everyone has the right to life, liberty, and security of the person." Section 12 of the *Charter* prohibits "any cruel and unusual treatment or punishment," which Canadian courts have described as behaviour "so excessive as to outrage the standards of decency." This behaviour includes torture and other cruel, inhuman, or degrading treatment or punishment.

Definitions

- "Mistreatment" means torture or other cruel, inhuman, or degrading treatment or punishment.
- "Substantial risk" is a personal, present, and foreseeable risk of mistreatment.
 - In order to be "substantial," the risk must be real and must be based on something more than mere theory or speculation.
 - In most cases, the test of a substantial risk of mistreatment will be satisfied when it is more likely than not that there will be mistreatment. However, the "more likely than not" test should not be applied rigidly because in some cases, particularly where the risk is of severe harm, the "substantial risk" standard may be satisfied at a lower level of probability.

Information Sharing Principles

- Sharing information with foreign entities is an integral part of the mandates of Canadian intelligence and law enforcement authorities. It is also a formal obligation pursuant to Canada's adoption of various international resolutions and agreements.
- In sharing information, departments and agencies must act in a manner that complies with Canada's laws and legal obligations.
- Departments and agencies must assess and mitigate potential risks of sharing information in ways that are consistent with their unique roles and responsibilities.
- Departments and agencies must also assess the accuracy and reliability of information received, and properly characterize this information in any further dissemination.
- The approval level that departments and agencies require in order to share information must be proportionate to the risk of mistreatment that may result: the greater the risk, the more senior the level of approval required.

s.69(1)(g) re (c)

SECRET

- Departments and agencies also have a responsibility to keep their respective Ministers generally informed about their information sharing practices.

Decision Making Process

- Departments and agencies are responsible for establishing approval levels that are proportionate to the risks in sharing information with foreign entities. This Framework only applies when there is a substantial risk of mistreatment of an individual.
- When there is a substantial risk that sending information to, or soliciting information from, a foreign entity would result in the mistreatment of an individual, and it is unclear whether that risk can be mitigated through the use of caveats or assurances, the matter will be referred to the responsible Deputy Minister or Agency Head for decision.
- In making his or her decision, the Deputy Minister or Agency Head will normally consider the following information, all of which must be properly characterized in terms of its accuracy and reliability:
 - the threat to Canada's national security or other interests, and the nature and imminence of that threat;
 - the importance of sharing the information, having regard to Canada's national security or other interests;
 - the status of the relationship with the foreign entity with which the information is to be shared, and an assessment of the human rights record of the foreign entity;
 - the rationale for believing that there is a substantial risk that sharing the information would lead to the mistreatment of an individual;
 - the proposed measures to mitigate the risk, and the likelihood that these measures will be successful (including, for example, the foreign entity's record in complying with past assurances, and the capacity of those government officials to fulfil the proposed assurance);
 - the views of the Department of Foreign Affairs and International Trade (DFAIT); and
 - the views of other departments and agencies, as appropriate, as well as any other relevant facts that may arise in the circumstances.
- The responsible Deputy Minister or Agency Head may refer the decision whether or not to share information with the foreign entity to his or her Minister, in which case the Minister will be provided with the information described above.
- The Deputy Minister/Agency Head or Minister shall authorize the sharing of information with the foreign entity only in accordance with Canada's legal obligations.

s.69(1)(g) re (c)

Support

- To help ensure a consistent understanding of the risks of sharing information with foreign entities, DFAIT will continue to make its country human rights reports available to the intelligence and law enforcement community.

Implementation

- Given the different mandates of departments and agencies, the Framework will be operationalized through individual Ministerial directions.

s.69(1)(g) re (c)

**Ministerial Direction to the Canada Border Services Agency:
Information Sharing With Foreign Entities¹**

In the current threat environment, terrorism is the top national security priority of the Government of Canada. In this context, it is essential that the Canada Border Services Agency (CBSA) is able to maintain strong relationships with foreign entities, and can share information with them on both a routine and an urgent basis. CBSA must also be able to quickly share information with other key domestic stakeholders, including federal departments and agencies that have the mandate and responsibility to respond to serious threats before they materialize.

The following Ministerial Direction provides guidance to the President of CBSA, pursuant to subsection 8(1) of the *CBSA Act*, on information sharing with foreign entities.

1. Canada's Legal Obligations

Sharing information with foreign entities is an integral part of CBSA's mandate. It is also a formal obligation pursuant to Canada's adoption of various international resolutions and agreements.

The Government of Canada opposes in the strongest possible terms the mistreatment of any individual by any foreign entity for any purpose. The Government also has a duty to its own citizens and to its allies to prevent individuals engaging in threat related activities from causing harm, whether in Canada or in a foreign country.

The Government of Canada does not condone the use of torture or other unlawful methods in responding to terrorism and other threats to national security. The Government is committed to pursuing a principled and proportionate response to these threats, while promoting and upholding the values Canada seeks to protect.

Canada is a party to a number of international agreements that prohibit torture and other forms of cruel, inhuman, or degrading treatment or punishment. These include the *International Covenant on Civil and Political Rights* and the *Convention Against Torture and Other Cruel, Inhumane, or Degrading Treatment or Punishment (CAT)*. The *CAT* requires state parties to criminalize all instances of torture, and to take effective measures to prevent torture and other cruel, inhuman, or degrading treatment or punishment in any territory under their jurisdiction.

Torture is a criminal offence in Canada that has extraterritorial application. The *Criminal Code's* provisions governing secondary liability also prohibit aiding and abetting the commission of torture, counselling the commission of torture whether or not the torture is committed, conspiracy to commit torture, attempting to commit torture, and being an accessory after the fact to torture.

¹ This Direction would not change existing legal authorities for sharing information with foreign entities. Although the term, foreign entity, has not been formally defined, it primarily refers to foreign government agencies and militaries. The term may also refer to military coalitions, alliances, and international organizations.

More broadly, section 7 of the *Canadian Charter of Rights and Freedoms* guarantees that “everyone has the right to life, liberty, and security of the person.” Section 12 of the *Charter* prohibits “any cruel and unusual treatment or punishment,” which Canadian courts have described as behaviour “so excessive as to outrage the standards of decency.” This behaviour includes torture and other cruel, inhuman, or degrading treatment or punishment.

2. Definitions

“Mistreatment” means torture or other cruel, inhuman, or degrading treatment or punishment.

“Substantial risk” is a personal, present, and foreseeable risk of mistreatment.

- In order to be “substantial,” the risk must be real and must be based on something more than mere theory or speculation.
- In most cases, the test of a substantial risk of mistreatment will be satisfied when it is more likely than not that there will be mistreatment. However, the “more likely than not” test should not be applied rigidly because in some cases, particularly where the risk is of severe harm, the “substantial risk” standard may be satisfied at a lower level of probability.

3. Information Sharing Principles

Sharing information with foreign entities is an integral part of CBSA’s mandate. It is also a formal obligation pursuant to Canada’s adoption of various international resolutions and agreements.

In sharing information, CBSA must act in a manner that complies with Canada’s laws and legal obligations. It is to avoid any complicity in mistreatment by foreign entities.

CBSA must assess and mitigate potential risks of sharing information in ways that are consistent with its unique role and responsibilities.

CBSA must also assess the accuracy and reliability of information received, and properly characterize this information in any further dissemination. It must have in place reasonable and appropriate measures to identify information that is likely to have been derived from mistreatment.

The approval level that CBSA requires in order to share information must be proportionate to the risk of mistreatment that may result: the greater the risk, the more senior the level of approval required.

CBSA also has a responsibility to keep the Minister of Public Safety generally informed about its information sharing practices.

4. Decision Making Process When There Is A Substantial Risk of Mistreatment In Sharing Information

Except when there is a substantial risk, CBSA is responsible for establishing approval levels that are proportionate to the risks in sharing information with foreign entities. The following decision making process applies when there is a substantial risk of mistreatment of an individual.

When there is a substantial risk that sending information to, or soliciting information from, a foreign entity would result in the mistreatment of an individual, and it is unclear whether that risk can be mitigated through the use of caveats or assurances, the matter will be referred to the President for decision.

In making his or her decision, the President will normally consider the following information, all of which must be properly characterized in terms of its accuracy and reliability:

- the threat to Canada's national security or other interests, and the nature and imminence of that threat;
- the importance of sharing the information, having regard to Canada's national security or other interests;
- the status of the relationship with the foreign entity with which the information is to be shared, and an assessment of the human rights record of the foreign entity;
- the rationale for believing that there is a substantial risk that sharing the information would lead to the mistreatment of an individual;
- the proposed measures to mitigate the risk, and the likelihood that these measures will be successful (including, for example, the foreign entity's record in complying with past assurances, and the capacity of those government officials to fulfil the proposed assurance);
- the views of the Department of Foreign Affairs and International Trade (DFAIT); and
- the views of other departments and agencies, as appropriate, as well as any other relevant facts that may arise in the circumstances.

The President may refer the decision whether or not to share information with the foreign entity to the Minister of Public Safety, in which case the Minister will be provided with the information described above.

The President or Minister of Public Safety shall authorize the sharing of information with the foreign entity only in accordance with this Direction and with Canada's legal obligations.

5. Use Of Information That May Have Been Derived Through Mistreatment By Foreign Entities

As a general rule, CBSA is directed to not knowingly rely upon information derived through mistreatment by foreign entities.

UNCLASSIFIED

In exceptional circumstances, CBSA may need to share the most complete information in its possession, including information from foreign entities that was likely derived through mistreatment, in order to mitigate a serious threat of loss of life, injury, or substantial damage or destruction of property before it materializes. In such rare circumstances, ignoring such information solely because of its source would represent an unacceptable risk to public safety.

When there is a serious risk of loss of life, injury, or substantial damage or destruction of property, CBSA will make the protection of life and property its priority. If CBSA needs to share information that was likely derived through mistreatment with appropriate authorities in order to mitigate a serious threat, the matter will be referred to the President. All decisions shall be made only in accordance with this Direction and with Canada's legal obligations.

CBSA will take all reasonable measures to reduce the risk that any action on its part might promote or condone the use of mistreatment. Measures will also be taken to ensure that the information which may have been derived through mistreatment is accurately described, and that its reliability is properly characterized. Caveats will be imposed on information shared with both domestic and foreign recipients to restrict their use of information, as appropriate.

6. Support

To help ensure a consistent understanding of the risks of sharing information with foreign entities, DFAIT will continue to make its country human rights reports available to the intelligence and law enforcement community.

Ministerial Direction to the Royal Canadian Mounted Police: Information Sharing With Foreign Entities¹

In the current threat environment, terrorism is the top national security priority of the Government of Canada. In this context, it is essential that the Royal Canadian Mounted Police (RCMP) is able to maintain strong relationships with foreign entities, and can share information with them on both a routine and an urgent basis. The RCMP must also be able to quickly share information with other key domestic stakeholders, including federal departments and agencies that have the mandate and responsibility to respond to serious threats before they materialize.

The following Ministerial Direction provides guidance to the Commissioner of the RCMP, pursuant to section 5 of the *RCMP Act*, on information sharing with foreign entities. The guidance relates to RCMP investigations under subsection 6(1) of the *Security Offences Act*, and investigations related to a terrorist offence or terrorist activity as defined in section 2 of the *Criminal Code*.

1. Canada's Legal Obligations

Sharing information with foreign entities is an integral part of the RCMP's mandate. It is also a formal obligation pursuant to Canada's adoption of various international resolutions and agreements.

The Government of Canada opposes in the strongest possible terms the mistreatment of any individual by any foreign entity for any purpose. The Government also has a duty to its own citizens and to its allies to prevent individuals engaging in threat related activities from causing harm, whether in Canada or in a foreign country.

The Government of Canada does not condone the use of torture or other unlawful methods in responding to terrorism and other threats to national security. The Government is committed to pursuing a principled and proportionate response to these threats, while promoting and upholding the values Canada seeks to protect.

Canada is a party to a number of international agreements that prohibit torture and other forms of cruel, inhuman, or degrading treatment or punishment. These include the *International Covenant on Civil and Political Rights* and the *Convention Against Torture and Other Cruel, Inhumane, or Degrading Treatment or Punishment (CAT)*. The *CAT* requires state parties to criminalize all instances of torture, and to take effective measures to prevent torture and other cruel, inhuman, or degrading treatment or punishment in any territory under their jurisdiction.

Torture is a criminal offence in Canada that has extraterritorial application. The *Criminal Code*'s provisions governing secondary liability also prohibit aiding and abetting the commission

¹ This Direction would not change existing legal authorities for sharing information with foreign entities. Although the term, foreign entity, has not been formally defined, it primarily refers to foreign government agencies and militaries. The term may also refer to military coalitions, alliances, and international organizations.

of torture, counselling the commission of torture whether or not the torture is committed, conspiracy to commit torture, attempting to commit torture, and being an accessory after the fact to torture.

More broadly, section 7 of the *Canadian Charter of Rights and Freedoms* guarantees that “everyone has the right to life, liberty, and security of the person.” Section 12 of the *Charter* prohibits “any cruel and unusual treatment or punishment,” which Canadian courts have described as behaviour “so excessive as to outrage the standards of decency.” This behaviour includes torture and other cruel, inhuman, or degrading treatment or punishment.

2. Definitions

“Mistreatment” means torture or other cruel, inhuman, or degrading treatment or punishment.

“Substantial risk” is a personal, present, and foreseeable risk of mistreatment.

- In order to be “substantial,” the risk must be real and must be based on something more than mere theory or speculation.
- In most cases, the test of a substantial risk of mistreatment will be satisfied when it is more likely than not that there will be mistreatment. However, the “more likely than not” test should not be applied rigidly because in some cases, particularly where the risk is of severe harm, the “substantial risk” standard may be satisfied at a lower level of probability.

3. Information Sharing Principles

Sharing information with foreign entities is an integral part of the RCMP’s mandate. It is also a formal obligation pursuant to Canada’s adoption of various international resolutions and agreements.

In sharing information, the RCMP must act in a manner that complies with Canada’s laws and legal obligations. It is to avoid any complicity in mistreatment by foreign entities.

The RCMP must assess and mitigate potential risks of sharing information in ways that are consistent with its unique role and responsibilities.

The RCMP must also assess the accuracy and reliability of information received, and properly characterize this information in any further dissemination. It must have in place reasonable and appropriate measures to identify information that is likely to have been derived from mistreatment.

The approval level that the RCMP requires in order to share information must be proportionate to the risk of mistreatment that may result: the greater the risk, the more senior the level of approval required.

The RCMP also has a responsibility to keep the Minister of Public Safety generally informed about its information sharing practices.

4. Decision Making Process When There Is A Substantial Risk of Mistreatment In Sharing Information

Except when there is a substantial risk, the RCMP is responsible for establishing approval levels that are proportionate to the risks in sharing information with foreign entities. The following decision making process applies when there is a substantial risk of mistreatment of an individual.

When there is a substantial risk that sending information to, or soliciting information from, a foreign entity would result in the mistreatment of an individual, and it is unclear whether that risk can be mitigated through the use of caveats or assurances, the matter will be referred to the Commissioner for decision.

In making his or her decision, the Commissioner will normally consider the following information, all of which must be properly characterized in terms of its accuracy and reliability:

- the threat to Canada's national security or other interests, and the nature and imminence of that threat;
- the importance of sharing the information, having regard to Canada's national security or other interests;
- the status of the relationship with the foreign entity with which the information is to be shared, and an assessment of the human rights record of the foreign entity;
- the rationale for believing that there is a substantial risk that sharing the information would lead to the mistreatment of an individual;
- the proposed measures to mitigate the risk, and the likelihood that these measures will be successful (including, for example, the foreign entity's record in complying with past assurances, and the capacity of those government officials to fulfil the proposed assurance);
- the views of the Department of Foreign Affairs and International Trade (DFAIT); and
- the views of other departments and agencies, as appropriate, as well as any other relevant facts that may arise in the circumstances.

The Commissioner may refer the decision whether or not to share information with the foreign entity to the Minister of Public Safety, in which case the Minister will be provided with the information described above.

The Commissioner or Minister of Public Safety shall authorize the sharing of information with the foreign entity only in accordance with this Direction and with Canada's legal obligations.

5. Use Of Information That May Have Been Derived Through Mistreatment By Foreign Entities

As a general rule, the RCMP is directed to not knowingly rely upon information derived through mistreatment by foreign entities.

In exceptional circumstances, the RCMP may need to share the most complete information in its possession, including information from foreign entities that was likely derived through mistreatment, in order to mitigate a serious threat of loss of life, injury, or substantial damage or destruction of property before it materializes. In such rare circumstances, ignoring such information solely because of its source would represent an unacceptable risk to public safety.

When there is a serious risk of loss of life, injury, or substantial damage or destruction of property, the RCMP will make the protection of life and property its priority. If the RCMP needs to share information that was likely derived through mistreatment with appropriate authorities in order to mitigate a serious threat, the matter will be referred to the Commissioner. All decisions shall be made only in accordance with this Direction and with Canada's legal obligations.

The RCMP will take all reasonable measures to reduce the risk that any action on its part might promote or condone the use of mistreatment. Measures will also be taken to ensure that the information which may have been derived through mistreatment is accurately described, and that its reliability is properly characterized. Caveats will be imposed on information shared with both domestic and foreign recipients to restrict their use of information, as appropriate.

6. Support

To help ensure a consistent understanding of the risks of sharing information with foreign entities, DFAIT will continue to make its country human rights reports available to the intelligence and law enforcement community.



Minister of Public Safety

Ministre de la Sécurité publique

Ottawa, Canada K1A 0P8

UNCLASSIFIED

JUL 28 2011

Mr. Richard Fadden
Director
Canadian Security Intelligence Service
1941 Ogilvie Road
Gloucester, Ontario K1J 1B7

Dear Mr. Fadden,

I previously indicated to you that officials in Public Safety Canada were preparing more comprehensive guidance on the Canadian Security Intelligence Service's (CSIS) information sharing practices.

Please find attached my new direction to CSIS on "Information Sharing with Foreign Entities."

This Ministerial Direction replaces the direction issued in 2009 on "Information Sharing with Foreign Agencies," as well as a copy of my letter to you dated December 7, 2010.

Yours sincerely,

A handwritten signature in black ink that reads "Vic Toews".

Vic Toews, P.C., Q.C., M.P.

Enclosure

Canada

000112

Ministerial Direction to the Canadian Security Intelligence Service: Information Sharing With Foreign Entities¹

In the current threat environment, terrorism is the top national security priority of the Government of Canada. In this context, it is essential that the Canadian Security Intelligence Service (CSIS) is able to maintain strong relationships with foreign entities, and can share information with them on both a routine and an urgent basis. CSIS must also be able to quickly share information with other key domestic stakeholders, including federal departments and agencies that have the mandate and responsibility to respond to serious threats before they materialize.

The following Ministerial Direction provides guidance to the Director of CSIS, pursuant to section 6(2) of the *CSIS Act*, on information sharing with foreign entities.

1. Canada's Legal Obligations

Sharing information with foreign entities is an integral part of CSIS' mandate. It is also a formal obligation pursuant to Canada's adoption of various international resolutions and agreements.

The Government of Canada opposes in the strongest possible terms the mistreatment of any individual by any foreign entity for any purpose. The Government also has a duty to its own citizens and to its allies to prevent individuals engaging in threat related activities from causing harm, whether in Canada or in a foreign country.

The Government of Canada does not condone the use of torture or other unlawful methods in responding to terrorism and other threats to national security. The Government is committed to pursuing a principled and proportionate response to these threats, while promoting and upholding the values Canada seeks to protect.

Canada is a party to a number of international agreements that prohibit torture and other forms of cruel, inhuman, or degrading treatment or punishment. These include the *International Covenant on Civil and Political Rights* and the *Convention Against Torture and Other Cruel, Inhumane, or Degrading Treatment or Punishment (CAT)*. The *CAT* requires state parties to criminalize all instances of torture, and to take effective measures to prevent torture and other cruel, inhuman, or degrading treatment or punishment in any territory under their jurisdiction.

Torture is a criminal offence in Canada that has extraterritorial application. The *Criminal Code's* provisions governing secondary liability also prohibit aiding and abetting the commission of torture, counselling the commission of torture whether or not the torture is committed, conspiracy to commit torture, attempting to commit torture, and being an accessory after the fact to torture.

¹ This Direction would not change existing legal authorities for sharing information with foreign entities. Although the term, foreign entity, has not been formally defined, it primarily refers to foreign government agencies and militaries. The term may also refer to military coalitions, alliances, and international organizations.

More broadly, section 7 of the *Canadian Charter of Rights and Freedoms* guarantees that “everyone has the right to life, liberty, and security of the person.” Section 12 of the *Charter* prohibits “any cruel and unusual treatment or punishment,” which Canadian courts have described as behaviour “so excessive as to outrage the standards of decency.” This behaviour includes torture and other cruel, inhuman, or degrading treatment or punishment.

2. Definitions

“Mistreatment” means torture or other cruel, inhuman, or degrading treatment or punishment.

“Substantial risk” is a personal, present, and foreseeable risk of mistreatment.

- In order to be “substantial,” the risk must be real and must be based on something more than mere theory or speculation.
- In most cases, the test of a substantial risk of mistreatment will be satisfied when it is more likely than not that there will be mistreatment. However, the “more likely than not” test should not be applied rigidly because in some cases, particularly where the risk is of severe harm, the “substantial risk” standard may be satisfied at a lower level of probability.

3. Information Sharing Principles

Sharing information with foreign entities is an integral part of CSIS’ mandate. It is also a formal obligation pursuant to Canada’s adoption of various international resolutions and agreements.

In sharing information, CSIS must act in a manner that complies with Canada’s laws and legal obligations. It is to avoid any complicity in mistreatment by foreign entities.

CSIS must assess and mitigate potential risks of sharing information in ways that are consistent with its unique role and responsibilities.

CSIS must also assess the accuracy and reliability of information received, and properly characterize this information in any further dissemination. It must have in place reasonable and appropriate measures to identify information that is likely to have been derived from mistreatment.

The approval level that CSIS requires in order to share information must be proportionate to the risk of mistreatment that may result: the greater the risk, the more senior the level of approval required.

CSIS also has a responsibility to keep the Minister of Public Safety generally informed about its information sharing practices.

4. Decision Making Process When There Is A Substantial Risk of Mistreatment In Sharing Information

Except when there is a substantial risk, CSIS is responsible for establishing approval levels that are proportionate to the risks in sharing information with foreign entities. The following decision making process applies when there is a substantial risk of mistreatment of an individual.

When there is a substantial risk that sending information to, or soliciting information from, a foreign entity would result in the mistreatment of an individual, and it is unclear whether that risk can be mitigated through the use of caveats or assurances, the matter will be referred to the Director for decision.

In making his or her decision, the Director will normally consider the following information, all of which must be properly characterized in terms of its accuracy and reliability:

- the threat to Canada's national security or other interests, and the nature and imminence of that threat;
- the importance of sharing the information, having regard to Canada's national security or other interests;
- the status of the relationship with the foreign entity with which the information is to be shared, and an assessment of the human rights record of the foreign entity;
- the rationale for believing that there is a substantial risk that sharing the information would lead to the mistreatment of an individual;
- the proposed measures to mitigate the risk, and the likelihood that these measures will be successful (including, for example, the foreign entity's record in complying with past assurances, and the capacity of those government officials to fulfil the proposed assurance);
- the views of the Department of Foreign Affairs and International Trade (DFAIT); and
- the views of other departments and agencies, as appropriate, as well as any other relevant facts that may arise in the circumstances.

The Director may refer the decision whether or not to share information with the foreign entity to the Minister of Public Safety, in which case the Minister will be provided with the information described above.

The Director or Minister of Public Safety shall authorize the sharing of information with the foreign entity only in accordance with this Direction and with Canada's legal obligations.

5. Use Of Information That May Have Been Derived Through Mistreatment By Foreign Entities

As a general rule, CSIS is directed to not knowingly rely upon information derived through mistreatment by foreign entities.

In exceptional circumstances, CSIS may need to share the most complete information in its possession, including information from foreign entities that was likely derived through mistreatment, in order to mitigate a serious threat of loss of life, injury, or substantial damage or destruction of property before it materializes. In such rare circumstances, ignoring such information solely because of its source would represent an unacceptable risk to public safety.

When there is a serious risk of loss of life, injury, or substantial damage or destruction of property, CSIS will make the protection of life and property its priority. If CSIS needs to share information that was likely derived through mistreatment with appropriate authorities in order to mitigate a serious threat, the matter will be referred to the Director. All decisions shall be made only in accordance with this Direction and with Canada's legal obligations.

CSIS will take all reasonable measures to reduce the risk that any action on its part might promote or condone the use of mistreatment. Measures will also be taken to ensure that the information which may have been derived through mistreatment is accurately described, and that its reliability is properly characterized. Caveats will be imposed on information shared with both domestic and foreign recipients to restrict their use of information, as appropriate.

6. Support

To help ensure a consistent understanding of the risks of sharing information with foreign entities, DFAIT will continue to make its country human rights reports available to the intelligence and law enforcement community.

Instruction du ministre à l'intention du Service canadien du renseignement de sécurité sur l'échange d'information avec des organismes étrangers¹

Compte tenu des menaces actuelles, la lutte contre le terrorisme est la plus grande priorité du gouvernement du Canada en matière de sécurité nationale. Dans ce contexte, il est essentiel que le Service canadien du renseignement de sécurité (SCRS) puisse entretenir des relations solides avec les organismes étrangers et qu'il puisse échanger avec eux de l'information de manière courante ou urgente. Le SCRS doit également pouvoir échanger rapidement de l'information avec des intervenants clés au pays, y compris les ministères et organismes fédéraux qui ont pour mandat et responsabilité de combattre les menaces graves avant qu'elles ne se concrétisent.

La présente instruction du ministre, établit conformément au paragraphe 6(2) de la *Loi sur le SCRS*, apporte au directeur du SCRS des directives sur l'échange d'information avec des organismes étrangers.

1. Obligations juridiques du Canada

L'échange d'information avec des organismes étrangers fait partie intégrante du mandat du SCRS. Il s'agit également d'une obligation découlant de l'adoption par le Canada de diverses résolutions et ententes internationales.

Le gouvernement du Canada s'oppose catégoriquement à ce que de mauvais traitements soient infligés à quiconque par un organisme étranger, quel que soit le but visé. Il a également le devoir envers ses citoyens et ses alliés d'empêcher les individus qui participent à des activités représentant une menace de causer du tort au Canada ou à l'étranger.

Le gouvernement du Canada s'oppose à l'utilisation de la torture et d'autres méthodes illicites pour combattre le terrorisme et les autres menaces à la sécurité nationale. Il est déterminé à recourir à une intervention proportionnelle et fondée sur des principes pour faire face aux menaces, tout en défendant les valeurs que le Canada cherche à protéger.

Le Canada est partie à un certain nombre d'ententes internationales qui interdisent la torture et les autres formes de peines et de traitements cruels, inhumains ou dégradants. Il est par exemple partie au *Pacte international relatif aux droits civils et politiques* et à la *Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants*. Cette convention exige que les États parties criminalisent toutes les formes de torture et prennent des mesures concrètes pour empêcher que des actes de torture ou que des peines ou des traitements cruels, inhumains ou dégradants soient infligés dans tout territoire relevant de leur compétence.

Au Canada, la torture est une infraction pénale de portée extraterritoriale. Les dispositions sur la responsabilité subsidiaire du *Code criminel* interdisent également aux personnes d'aider ou

¹ Le Cadre ne change rien aux obligations juridiques existantes en matière d'échange d'information avec des entités étrangères. Le terme entité étrangère, même s'il n'est pas défini de manière officielle, désigne d'abord et avant tout les organismes et services militaires étrangers. Il peut aussi s'appliquer à des coalitions militaires, des alliances et des organisations internationales.

d'encourager la commission d'un acte de torture, de conseiller la torture peu importe si un acte de torture est commis, de tenter ou de comploter de commettre un acte de torture ou d'être complice après le fait.

De façon plus générale, l'article 7 de la *Charte canadienne des droits et libertés* garantit que « chacun a droit à la vie, à la liberté et à la sécurité de sa personne ». L'article 12 de la Charte protège contre « tous traitements ou peines cruels et inusités », lesquels ont été définis par les tribunaux canadiens comme un comportement « excessif au point de ne pas être compatibles avec la dignité humaine », ce qui comprend la torture et les autres formes de peines ou de traitements cruels, inhumains ou dégradants.

2. Définitions

« Mauvais traitement » s'entend de la torture ou de tout autre peine ou traitement cruel, inhumain ou dégradant.

« Risque substantiel » signifie qu'une personne court un risque personnel, actuel et prévisible de subir des mauvais traitements.

- Pour être « substantiel », le risque doit être réel et ne pas être uniquement théorique ou spéculatif.
- Dans la plupart des cas, l'existence d'un risque substantiel est établie s'il est « plus probable qu'improbable » que des mauvais traitements soient infligés à la personne. Cependant, ce critère ne doit pas être appliqué de manière absolue puisqu'il est possible dans certains cas d'établir l'existence d'un « risque substantiel » à un niveau de probabilité inférieure, surtout si une personne risque de subir un préjudice grave.

3. Principes liés à l'échange d'information

L'échange d'information avec des organismes étrangers fait partie intégrante du mandat du SCRS. Il s'agit également d'une obligation découlant de l'adoption par le Canada de diverses résolutions et ententes internationales.

Lorsqu'il échange de l'information, le SCRS doit respecter les lois et les obligations juridiques du Canada. Il doit éviter également d'être complice de mauvais traitements infligés par des organismes étrangers.

Le SCRS doit évaluer et atténuer les risques qui pourraient être liés à l'échange d'information en tenant compte des responsabilités et rôles qui lui sont propres.

Le SCRS doit également évaluer l'exactitude et la fiabilité de l'information qu'il reçoit et qualifier adéquatement l'information avant de la transmettre à d'autres. Il doit avoir en place des mesures raisonnables et appropriées pour cerner l'information qui a probablement été obtenue à la suite de mauvais traitements.

Le niveau d'approbation requis pour échanger de l'information doit être proportionnel au risque de mauvais traitements. Plus le risque est grand, plus le niveau d'approbation est élevé.

Le SCRS est tenu d'informer de manière générale le ministre de la Sécurité publique de ses pratiques en matière d'échange d'information.

4. Processus décisionnel lorsque l'échange d'information comporte un risque substantiel de mauvais traitements

Sauf dans les cas où il existe un risque substantiel, le SCRS détermine les niveaux d'approbation requis en fonction des risques liés à l'échange de l'information avec des organismes étrangers. Le présent processus décisionnel s'applique uniquement lorsqu'il existe un risque substantiel que des mauvais traitements soient infligés à une personne.

Si le fait de communiquer de l'information à un organisme étranger ou d'obtenir de l'information de celui-ci soulève un risque substantiel que des mauvais traitements soient infligés et s'il n'est pas certain que le risque peut être atténué en utilisant des restrictions ou en obtenant des garanties, la décision d'échanger de l'information doit être rendue par le directeur.

Dans sa décision, le directeur tient normalement compte des renseignements ci-dessous, qui doivent tous être accompagnés d'une mention précisant leur exactitude et fiabilité :

- la menace pour la sécurité nationale et les intérêts canadiens, ainsi que la nature et le caractère imminent de cette menace;
- l'importance de l'échange de l'information en ce qui concerne la protection de la sécurité nationale ou d'autres intérêts canadiens;
- la relation entre le Canada et l'organisme étranger visé, et une évaluation du bilan en matière de respect des droits de la personne de cet organisme;
- les raisons de croire que l'échange de l'information pose un risque substantiel que des mauvais traitements soient infligés à une personne;
- les mesures proposées pour atténuer le risque et la probabilité que ces mesures soient efficaces (par exemple, le respect par le passé des garanties offertes par l'organisme étranger et la capacité des représentants du gouvernement de s'en acquitter);
- les vues du ministère des Affaires étrangères et du Commerce international;
- les vues d'autres ministères et organismes, au besoin, et tout autre fait pertinent dans les circonstances.

Le directeur peut demander au ministre de la Sécurité publique de décider s'il y a lieu d'échanger de l'information avec l'organisme étranger. Le cas échéant, les renseignements énumérés précédemment sont communiqués au ministre.

Le directeur ou encore le ministre de la Sécurité publique autorise l'échange de l'information avec l'organisme étranger seulement si cela ne contrevient pas à la présente instruction et aux obligations juridiques du Canada.

5. Utilisation de l'information ayant peut-être été obtenue à la suite de mauvais traitements infligés par des organismes étrangers

Règle générale, il est interdit au SCRS d'utiliser sciemment de l'information obtenue à la suite de mauvais traitements infligés des organismes étrangers.

Dans des circonstances exceptionnelles, le SCRS peut être appelé à communiquer toute l'information en sa possession, y compris celle qui provient d'un organisme étranger et qui a été vraisemblablement obtenue à la suite de mauvais traitements, afin d'atténuer une menace sérieuse pouvant entraîner des pertes de vie, des blessures, des dommages graves ou la destruction de biens, et l'empêcher de se concrétiser. Dans de telles rares circonstances, le fait de ne pas tenir compte de cette information seulement en raison de la source constitue un risque inacceptable pour la sécurité publique.

En cas de menace sérieuse pouvant entraîner des pertes de vie, des blessures, des dommages graves ou la destruction de biens, le SCRS accordera la priorité à la protection de la vie et des biens. Dans le cas où le SCRS doit échanger de l'information vraisemblablement obtenue à la suite de mauvais traitements avec les responsables autorisées pour atténuer une menace sérieuse, il incombe au directeur de prendre une décision à cet égard. D'ailleurs, toutes les décisions doivent respecter la présente instruction et les obligations juridiques du Canada.

Le SCRS prend des mesures raisonnables pour atténuer le risque que les mesures qu'il mettra en place aient pour effet de préconiser ou d'autoriser les mauvais traitements. Il doit également prendre des mesures pour décrire avec exactitude les informations obtenues à la suite de mauvais traitements et pour en caractériser la fiabilité. Le SCRS impose l'utilisation des restrictions en ce qui concerne à l'échange d'information avec des organismes canadiens ou étrangers afin d'en limiter l'utilisation, selon le cas.

6. Soutien

Pour assurer une compréhension uniforme des risques liés à l'échange d'information avec des organismes étrangers, le MAECI continuera de mettre à la disposition des organismes du renseignement et d'application de la loi ses rapports sur le respect des droits de la personne par les pays.

Minister of Public Safety



Ministre de la Sécurité publique

Ottawa, Canada K1A 0P8

SEP 09 2011

UNCLASSIFIED

Mr. Luc Portelance
President
Canada Border Services Agency
191 Laurier Avenue West
Ottawa, ON K1A 0L8

Dear Mr. Portelance,

Please find attached my new direction to the Canada Border Services Agency on
"Information Sharing with Foreign Entities."

Yours sincerely,

A handwritten signature in black ink, appearing to read "Vic Toews".

Vic Toews, P.C., Q.C., M.P.

Enclosure

Canada

000121

Minister of Public Safety



Ministre de la Sécurité publique

Ottawa, Canada K1A 0P8

UNCLASSIFIED

SEP 09 2011

Mr. William J. S. Elliott
Commissioner
Royal Canadian Mounted Police
1200 Vanier Parkway
Ottawa, ON K1A 0R2

Dear Mr. Elliott,

Please find attached my new direction to the Royal Canadian Mounted Police on
"Information Sharing with Foreign Entities."

Yours sincerely,

A handwritten signature in cursive script, appearing to read "Vic Toews".

Vic Toews, P.C., Q.C., M.P.

Enclosure

Canada

000122

TOP SECRET

April 1980

s.15(1) - Subv

s.15(1)(d)ii

MEMORANDUM TO THE CABINET

SUBJECT: Operational Policy Direction
for the RCMP Security Service

Object

1. To obtain policy direction for the RCMP Security Service with respect to certain issues or areas of operational activity. The 1975 Guidelines, approved by the Cabinet on 27 March, 1975, provide broad and general operational policy direction only. There remain a number of sensitive operational issues and areas of activity for which additional direction from the Government is required.

Decision Required

2. The RCMP Security Service requires Cabinet consideration and decision with respect to a number of operational topics and specific issues. Issues for discussion are identified below and are examined through case illustrations in the attached appendices.

A. "Espionage", "Foreign Intelligence Activities" and "Terrorism"

Issue 1 - Definition of "Espionage" and "Foreign Intelligence Activities" (Appendix 1)

Issue 2 - Prevention of Terrorism (Appendix 2)

B. Separatism and Security Intelligence

Issue 3 -

Issue 4 -

C. Surveillance of Groups and Organizations

Issue 5 - (Appendix 5)

D.

Issue 6 - (Appendix 6)

Issue 7 - (Appendix 7)

Issue 8 - (Appendix 8)

000028

Issue 9 - !
(Appendix 9)

E.

Issue 10 -
(Appendix 10)

Issue 11 -
(Appendix 11)

Considerations

3. The RCMP Security Service requires additional operational policy direction in certain areas to promote effectiveness and to ensure that its activity is in accord with Government needs and requirements. Since requirements for security intelligence will vary as the nature of the threat to Canada changes, the adequacy of operational policy direction must be continuously re-evaluated and adjusted where necessary.

4. The operational policy direction approved will have a direct impact on the scope of intelligence collection, the types of organizations (and individuals) targetted for surveillance and the methods or "means" utilized to maintain internal security. The operational policy direction provided will determine the parameters or limits of activity in specified areas and have an important effect on the ability of the Service to achieve its internal security objectives.

5. Additional operational policy direction must function in harmony with the 1975 Guidelines. The Guidelines authorize the RCMP Security Service "to maintain internal security by discerning, monitoring, investigating, deterring, preventing and countering individuals and groups in Canada where there are reasonable and probable grounds to believe that they may be engaged in or may be planning to engage in:

- (a) espionage or sabotage;
- (b) foreign intelligence activities directed toward gathering intelligence information relating to Canada;
- (c) activities directed toward accomplishing governmental change within Canada or elsewhere by force or violence or any criminal means;
- (d) activities of a foreign power directed toward actual or potential attack or other hostile acts against Canada;
- (e) activities of a foreign or domestic group directed toward the commission of terrorist acts in or against Canada; or
- (f) the use or the encouragement of the use of force, violence or any criminal means, or the creation or exploitation of civil disorder, for the purpose of accomplishing any of the activities referred to above."

Financial Considerations

Nil.

Federal-Provincial Relations Considerations

Nil.

Interdepartmental Consultation

Nil.

Public Information Strategy

Nil.

Political Considerations

Nil.

Conclusions

The Cabinet give consideration to the issues outlined to ensure that the RCMP Security Service is provided with the required operational policy direction.

Recommendations

Recommendations in respect to each topic are contained in the appendices.

Solicitor General of Canada

s.15(1) - Subv
s.15(1)(d)ii)
s.19(1)

Appendix I

SECRET

ISSUE 1 - Definition of "Espionage" and "Foreign Intelligence Activities"

FACTS

INVESTIGATIVE AUTHORITY

Case A

The RCMP Security Service assumed authority under the Official Secrets Act and RCMP Security Service Guidelines (a) - "espionage" and, (b) - "foreign intelligence activities directed toward gathering intelligence information relating to Canada". Warrants were issued under the Official Secrets Act 16(2) definition 16(3)(b).

.../Z

Case B

The RCMP Security Service assumed authority under RCMP Guidelines (b) - "foreign intelligence activities directed toward gathering intelligence information relating to Canada".

Case C

The RCMP Security Service assumed authority under RCMP Guidelines (b) - "foreign intelligence activities directed toward gathering intelligence information relating to Canada".
Warrants were issued under the Official Secrets Act 16(2) definition 16(3)(b).

ISSUES

- (1) The difference between "espionage" and "foreign intelligence activity".
- (2) The extent of RCMP Security Service coverage of "foreign intelligence activities directed toward gathering intelligence information relating to Canada".

OBSERVATIONS

- (1) "Espionage" is in most cases a consequence of foreign intelligence activities" directed toward the acquisition of information specifically protected or classified. The RCMP Security Service defines "espionage" as follows:

espionage refers to any unlawful act committed by a representative or agent of a foreign power or any other person to procure or to communicate classified information which is the property of the Government of Canada or other classified information protected by the Government of Canada.

"Foreign intelligence activities" encompass a broad range of activities in addition to the collection through unacceptable means, of any information relating to Canada. In most cases, "foreign intelligence activities" are conducted by agents or representatives of a foreign intelligence service although an individual's direct or organizational affiliation may be well-concealed and difficult to establish. Unlike "espionage" (i.e. Case A), foreign intelligence activity (i.e. Cases B and C) may never prove to be illegal and may encompass a variety of contacts, communications and incidents which may, in the final analysis, not involve the collection of "intelligence information relating to Canada". In order to maintain internal security, the process of investigation must commence at the earliest possible stages.

- (2) Clause (b) of the Guidelines links "foreign intelligence activity" to the collection of information related to Canada. The clause should, however, be interpreted in a manner which would allow the RCMP Security Service to investigate "foreign intelligence activity" involving activities other than the strict collection of intelligence information related to Canada.

In addition, the RCMP Security Service considers any activities by foreign persons or groups which, for example, "interfere" with Canadian emigré/ethnic groups or which interfere with the Canadian political process to be the legitimate subject of RCMP Security Service investigation under clause (b) (eg. Case C).

.../3



RECOMMENDATIONS

The Cabinet

- (a) confirm the appropriateness of the above definition of "espionage" to direct RCMP Security Service activities under clause (a) of the Guidelines; and
- (b) confirm RCMP Security Service activities under clause (b) to include the investigation of all foreign intelligence activities in Canada including those which may not involve "the gathering of intelligence information relating to Canada"; and
- (c) confirm that activities by foreign persons or groups to "interfere" with Canadian emigré/ethnic groups or to "interfere" with the Canadian political process are legitimate subjects of RCMP Security Service investigation under clause (b).

s.15(1) - Subv
s.15(1)(d)ii

Appendix 2

TOP SECRET

ISSUE 2 - The Prevention of Terrorism

FACTS

INVESTIGATIVE AUTHORITY

The RCMP Security Service initially assumed authority under RCMP Guidelines (c) - "activities of a foreign or domestic group directed toward the commission of terrorist acts in or against Canada".

ISSUE

The scope of RCMP Security Service operations to prevent the commission of terrorist acts in or against Canada.

OBSERVATIONS

The nature of international terrorism suggests a continuing need for RCMP Security Service awareness of terrorist events and activities abroad - even in circumstances where Canadian interests may not be of immediate or direct concern. Canada remains a potential target or staging area for terrorist operations.

The RCMP Security Service restricts its investigation of international terrorist activities to Canadian territory and relies on foreign police and security agencies to provide any information relating to Canadian security which comes to their attention.

RECOMMENDATIONS

The Cabinet authorize the RCMP Security Service (in the context of the Guidelines clause (c)) (c)

000032

s.15(1) - Subv
s.15(1)(d)ii
s.19(1)

Appendix 3

TOP SECRET



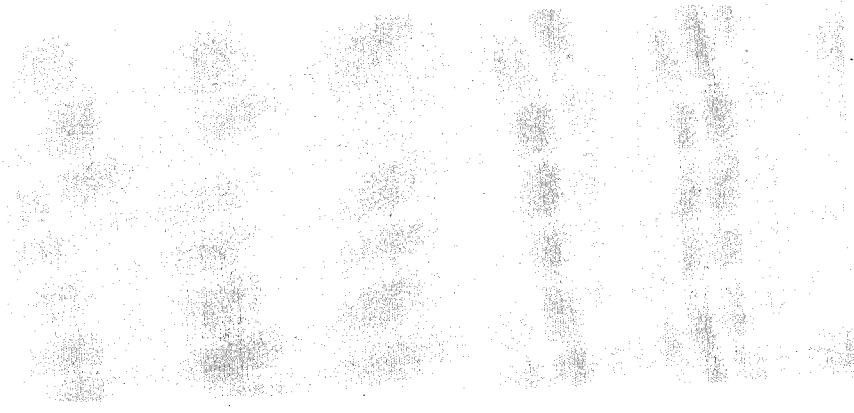
.../2

000003

s.15(1) - Subv
s.15(1)(d)ii)

Appendix 3

TOP SECRET



000034

s.15(1) - Subv

s.15(1)(d)ii)

Appendix 4

TOP SECRET



000035

Appendix 5

SECRET

ISSUE 5 -

FACTS

INVESTIGATIVE AUTHORITY

Case A

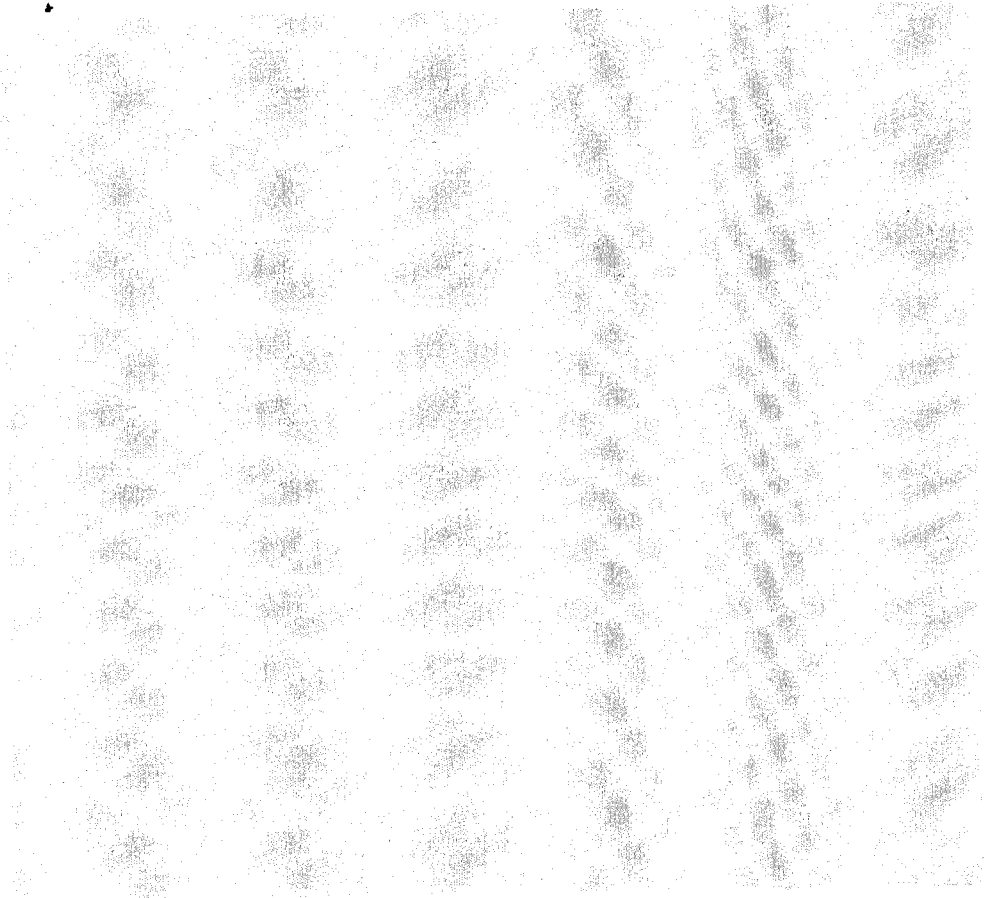
The RCMP Security Service assumed authority under RCMP Guidelines (b) - "foreign intelligence activities directed toward gathering intelligence information relating to Canada". Warrants were issued under the Official Secrets Act 16(2) definition 16(3)(b).

Case B

The RCMP Security Service assumed authority under RCMP Guidelines (c) - "activities directed toward accomplishing governmental change within Canada or elsewhere by force or violence or any criminal means". In addition, a warrant was issued under the Official Secrets Act 16(2) definition 16(3)(b).

ISSUE

OBSERVATIONS



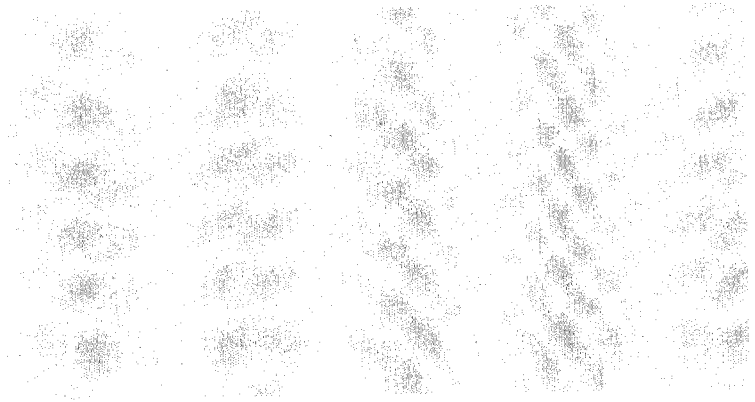
RECOMMENDATIONS

The Cabinet

(a)

(b)

(c)



000037

s.15(1) - Subv
s.19(1)
s.15(1)(d)iii

Appendix 6

SECRET

ISSUE 6 -

FACTS

INVESTIGATIVE AUTHORITY

Case A

The RCMP Security Service assumed authority under RCMP Guidelines (b) - "foreign intelligence activities directed toward gathering intelligence information relating to Canada".

Case B

The RCMP Security Service assumed authority under RCMP Guidelines (c) - "activities directed toward accomplishing governmental change within Canada or elsewhere by force or violence or any criminal means".

ISSUE

OBSERVATIONS

RECOMMENDATION

The Cabinet approve the use

000038

Appendix 7

SECRET



000039

s.15(1) - Subv

Appendix 8

s.15(1)(d)ii)

SECRET

ISSUE 8 - I

FACTS

INVESTIGATIVE AUTHORITY

Case A

The RCMP Security Service assumed authority under RCMP Guidelines (b) - "foreign intelligence activities directed toward gathering intelligence information relating to Canada".

Case B

The RCMP Security Service assumed authority under its general "counter-subversion" responsibilities. Today, the RCMP Security Service would assume authority under RCMP Guidelines (c) - "activities directed toward accomplishing governmental change within Canada or elsewhere by force or violence or any criminal means".

Current policy also directs that

ISSUE

OBSERVATIONS

.../2

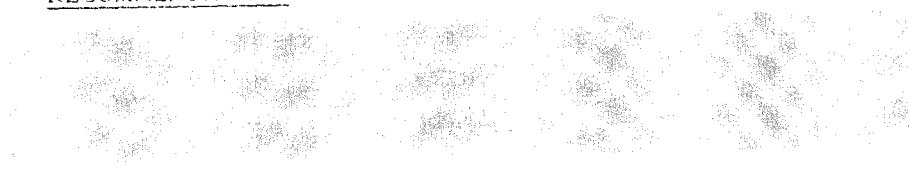


s.15(1) - Subv
s.15(1)(d)ii

Appendix 8

SECRET

RECOMMENDATIONS



000041

s.15(1) - Subv

s.15(1)(d)ii)

Appendix 9

SECRET

FACTS

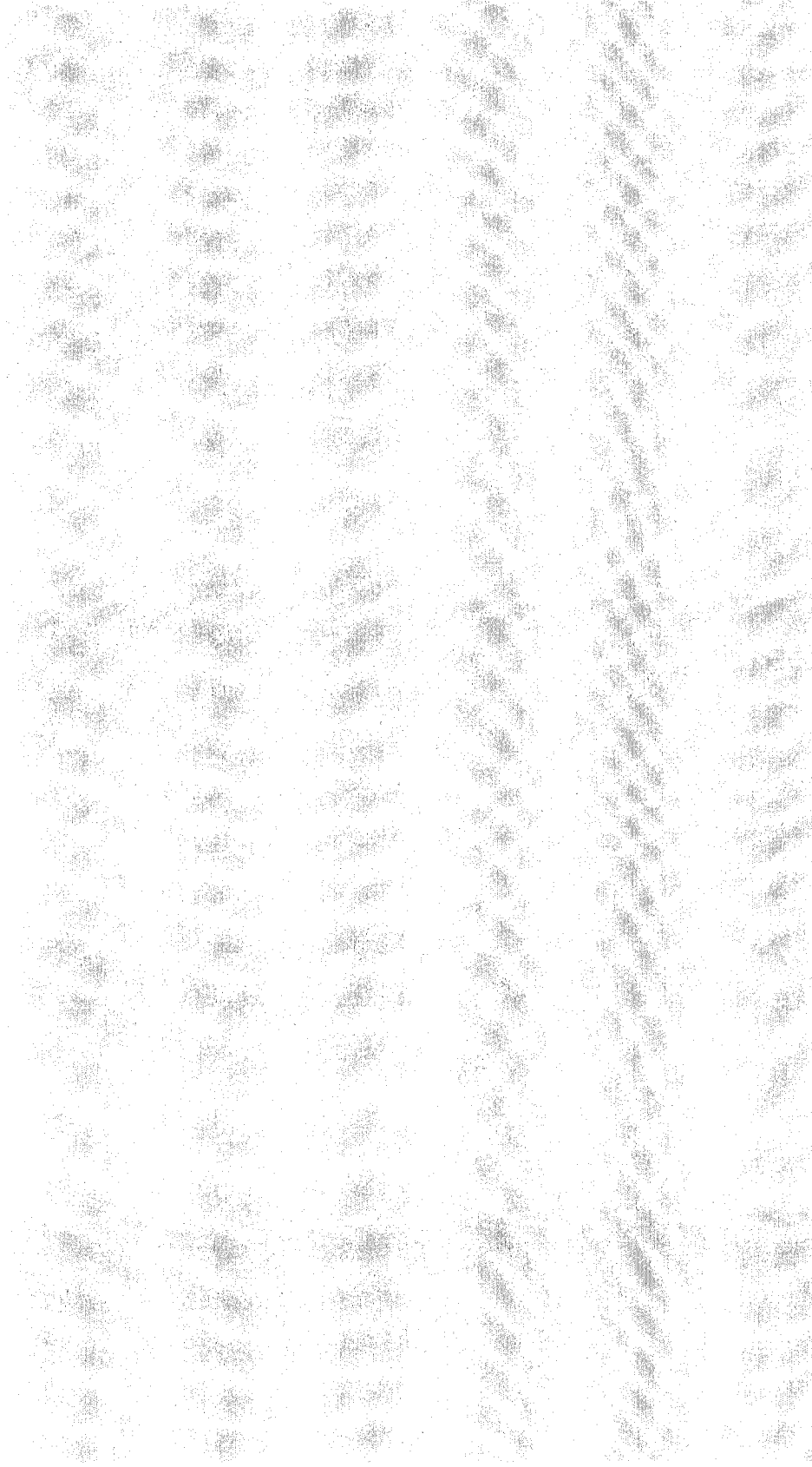
000042

000139

s.15(1) - Subv
s.15(1)(d)ii

Appendix 19

SECRET



000043

s.15(1)
s.15(1)(d)ii

s.15(1) - Subv

Appendix 11

SECRET



000044

Minister of Public Safety



Ministre de la Sécurité publique

Ottawa, Canada K1A 0P8

JAN 18 2011

SECRET

Dear Director Fadden, Commissioner Elliott and President Portelance:

I write to you today to ensure you are aware of the high priority the Government accords to issues of marine mass arrivals and human smuggling, and specifically, the investigation and prosecution of those who facilitate such activities. In response to the challenges which mass arrivals and human smuggling continue to pose to Canada's national security, the Government has taken decisive action, including the tabling of legislation in Parliament (Bill C-49), appointment of a Special Advisor on Human Smuggling and Illegal Migration, and the provision of financial resources to enhance operations in Southeast Asia.

As you well know, the challenge of human smuggling is complex and requires a whole of government response. In this regard, it is my responsibility under section 5 of the *Department of Public Safety and Emergency Preparedness Act* to coordinate the activities of, and establish strategic priorities for, agencies within the Public Safety portfolio, including the Royal Canadian Mounted Police, the Canadian Security Intelligence Service and the Canada Border Services Agency. Effective coordination between government agencies and departments, taking into account each other's respective interests and mandates, is absolutely essential if we are to successfully prevent and deter future human smuggling ventures destined for Canada, as well as to investigate and prosecute those who profit from these crimes.

As the Minister accountable to Parliament for public safety, I expect that you will work quickly and collaboratively in countering mass arrivals and human smuggling. Your combined efforts thus far have been commendable, and I trust that the Government will continue to have your fullest support as it works to address this critical issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Vic Toews".

Vic Toews, P.C., Q.C., M.P.

MINISTERIAL DIRECTION
NATIONAL SECURITY
RESPONSIBILITY AND
ACCOUNTABILITY

- A. This direction outlines the responsibilities and accountabilities of the Solicitor General of Canada and the Commissioner of the Royal Canadian Mounted Police (RCMP) in matters related to RCMP investigations that fall under subsection 6(1) of the *Security Offences Act* and investigations related to a terrorist offence or terrorist activity, as defined in section 2 of the *Criminal Code of Canada*, as amended by the *Anti-terrorism Act*.

Responsibilities

- B. In relation to the RCMP, the duties, powers and functions of the Solicitor General of Canada extend to and include all matters over which Parliament has jurisdiction. As per subsection 5(1) of the *RCMP Act*, the control and management of the RCMP, and all matters connected therewith, is the responsibility of the Commissioner of the RCMP, under the direction of the Solicitor General.
- C. The accompanying Ministerial direction sets out the principles and guidelines for RCMP investigations with respect to matters that fall under subsection 6(1) of the *Security Offences Act* and investigations related to a terrorist offence or terrorist activity, as

INSTRUCTION DU MINISTRE
LA SÉCURITÉ NATIONALE
RESPONSABILITÉ ET
OBLIGATION DE RENDRE
COMPTE

- A. Cette instruction décrit les responsabilités et obligations de rendre compte du solliciteur général du Canada et du commissaire de la Gendarmerie royale du Canada (GRC) en ce qui concerne les questions liées aux enquêtes de la GRC, conformément au paragraphe 6(1) de la *Loi sur les infractions en matière de sécurité* et aux enquêtes liées aux infractions de terrorisme et aux activités terroristes, telles que définies à l'article 2 du *Code criminel du Canada*, telles que modifiées par la *Loi antiterroriste*.

Responsabilités

- B. En ce qui concerne la GRC, les tâches, pouvoirs et fonctions du solliciteur général du Canada englobent toutes les questions relevant de la compétence du Parlement. En vertu du paragraphe 5(1) de la *Loi sur la Gendarmerie royale du Canada*, le commissaire de la GRC, sous la direction du solliciteur général, a pleine autorité sur la GRC et tout ce qui s'y rapporte.
- C. Une autre instruction du Ministre, allant de pair avec la présente, énoncera certains principes et lignes directrices concernant les activités de la GRC, conformément au paragraphe 6(1) de la *Loi sur les infractions en matière de sécurité* et aux enquêtes liées aux

defined in section 2 of the *Criminal Code of Canada*.

- D. It is the responsibility of the Commissioner of the RCMP to ensure that operational policies are in place to guide members. It is also the responsibility of the Commissioner to ensure that all investigations with respect to matters that fall under subsection 6(1) of the *Security Offences Act*, and investigations related to a terrorist offence or terrorist activity, as defined in section 2 of the *Criminal Code of Canada*, be centrally coordinated at RCMP National Headquarters. Such central coordination will enhance the Commissioner's operational accountability and in turn, will enhance ministerial accountability, by facilitating the Commissioner's reporting to the Minister.

Accountabilities

- E. The Minister is accountable to the Parliament of Canada for the RCMP. The Commissioner, in turn, reports to and is accountable to the Minister.
- F. As part of the accountability process, the Minister will be advised or informed regarding certain RCMP investigations with respect to matters that fall under subsection 6(1) of the *Security Offences Act*, and investigations related to a terrorist offence or terrorist activity, as defined in section 2 of the *Criminal Code of*

infractions de terrorisme et aux activités terroristes, telles que définies à l'article 2 du *Code criminel du Canada*.


- D. Il revient au commissaire de veiller à ce que des politiques opérationnelles appropriées soient en place pour guider les membres. Le commissaire doit également s'assurer que toutes les enquêtes visées au paragraphe 6(1) de la *Loi sur les infractions en matière de sécurité* et aux enquêtes liées aux infractions de terrorisme et aux activités terroristes, telles que définies à l'article 2 du *Code criminel du Canada* soient coordonnées de façon centralisée à l'administration centrale de la GRC. Une telle coordination renforcera la responsabilité opérationnelle du commissaire et, de façon subséquente, renforcera la responsabilité ministérielle en facilitant l'obligation de rendre compte du commissaire au Ministre.

Obligation de rendre compte

- E. Le Ministre doit rendre compte au Parlement du Canada en ce qui concerne la GRC. Le commissaire, pour sa part, relève du Ministre, à qui il doit rendre des comptes.
- F. Dans le cadre du processus de reddition de comptes, le Ministre s'attend à être informé de certaines activités de la GRC visées au paragraphe 6(1) de la *Loi sur les infractions en matière de sécurité* et aux enquêtes liées aux infractions de terrorisme et aux activités terroristes, telles que définies à l'article 2 du *Code criminel du Canada*. Le

Canada. The Commissioner of the
RCMP shall exercise his judgment
to inform the Minister of high
profile RCMP investigations or
those that give rise to controversy.

commissaire de la GRC exercera
son jugement pour informer le
Ministre de certaines enquêtes en
vue de la GRC ou celles qui
soulèvent la controverse.



Solicitor General of Canada/
Le solliciteur général du Canada



Date

MINISTERIAL DIRECTION
NATIONAL SECURITY RELATED
ARRANGEMENTS AND
COOPERATION

A. This direction establishes the process for the Royal Canadian Mounted Police (RCMP) to follow when entering into an arrangement with foreign security or intelligence organizations for the purpose of performing its duties and functions with respect to matters that fall under subsection 6(1) of the *Security Offences Act*, and those related to a terrorist offence or terrorist activity, as defined in section 2 of the *Criminal Code of Canada*. The RCMP may, with the Minister's prior approval, enter into a written or oral arrangement, or otherwise cooperate, with foreign security or intelligence organizations. This direction is in addition to the *Ministerial Directive on RCMP Agreements*, dated April 5, 2002.

B. The Commissioner will manage such arrangements or cooperation subject to any conditions imposed by the Minister.

C. This direction does not pertain to arrangements and cooperation with foreign law enforcement agencies or organizations.

INSTRUCTION DU MINISTRE
LES ACCORDS ET
COOPÉRATION RELIÉES À LA
SÉCURITÉ NATIONALE

A. La présente instruction établit le processus à suivre lorsque la Gendarmerie royale du Canada (GRC) conclut un accord avec des organisations étrangères de sécurité ou de renseignement, dans l'exercice des fonctions qui lui sont conférées relativement aux questions liées au paragraphe 6(1) de la *Loi sur les infractions en matière de sécurité* et aux enquêtes liées aux infractions de terrorisme et aux activités terroristes, telles que définies à l'article 2 du *Code criminel du Canada*. La GRC peut, avec l'approbation antérieure du Ministre, conclure un accord ou, d'une façon générale, coopérer avec des organisations étrangères de sécurité ou de renseignement. La présente instruction s'ajoute à la *Directive ministérielle sur les accords conclus par la GRC*, en date du 5 avril 2002.

B. Le commissaire gèrera les accords ou la coopération sous réserve de toute condition imposée par le Ministre.

C. La présente instruction ne s'applique pas aux accords ni à la coopération avec des organismes d'application de la loi étrangère.

D. The following guidelines will be adhered to when entering into an arrangement:

- Arrangements may be established and maintained as long as they remain compatible with Canada's foreign policy towards the country or international organization in question, including consideration of that country or organization's respect for democratic or human rights, as determined in ongoing consultations with the Department of Foreign Affairs and International Trade (DFAIT);
- Arrangements may be established and maintained when such contacts are in the interests of the security of Canada, further to the RCMP investigations related to subsection 6(1) of the *Security Offences Act*, and section 2 of the *Criminal Code of Canada*; and,
- Arrangements will respect the applicable laws and practices relating to the disclosure of personal information.

E. On matters related to threats to the security of Canada, as defined by the *Canadian Security Intelligence Service (CSIS) Act*, CSIS is the lead agency for liaison and cooperation with foreign security or intelligence organizations. In this regard, the RCMP will inform CSIS of any and all exchanges between the RCMP and a foreign security or intelligence service, unless the foreign party precludes such notification.

D. Les lignes directrices suivantes doivent être respectées en ce qui concerne la conclusion d'un accord :

- Des accords peuvent être établis et maintenus tant qu'ils sont compatibles avec la politique étrangère du Canada s'appliquant au pays ou à l'organisation internationale en question et qu'ils prennent en considération le niveau de respect, par ce pays ou organisation, des droits démocratiques ou des droits de la personne, tel qu'il est déterminé dans le cadre des consultations soutenues auprès du ministère des Affaires étrangères et du commerce international (MAECI);
- Des accords peuvent être établis et maintenus lorsqu'ils sont dans l'intérêt de la sécurité nationale, conformément aux activités de la GRC liées au paragraphe 6(1) de la *Loi sur les infractions en matière de sécurité* et à l'article 2 du *Code criminel du Canada*; et,
- Les accords respecteront les lois applicables relatives à la divulgation de renseignements personnels.

E. En ce qui a trait aux questions liées aux menaces pour la sécurité nationale, comme il est défini dans la *Loi sur le Service canadien du renseignement de sécurité (SCRS)*, le SCRS est l'organisme responsable de la liaison et de la coopération avec les organisations étrangères de sécurité ou du renseignement. À cet égard, la GRC informera le SCRS de tous les

échanges entre la GRC et un service de sécurité extérieure ou du renseignement à moins d'une indication contraire de la partie étrangère.

F. A written arrangement will clearly establish its purpose and obligations, including the application of privacy and access to information legislation.


F. Un accord écrit indiquera clairement l'objectif et les obligations, et respectera les dispositions législatives relatives à la protection des renseignements personnels et de l'accès à l'information.

G. The RCMP will maintain records relating to foreign arrangements, including a written record of the terms and understandings of oral arrangements. The RCMP will indicate its means of periodic evaluation or audit of the arrangement, and the provisions for its cancellation. The Commissioner will report annually to the Minister on the status of the RCMP's written and oral arrangements with foreign security or intelligence organizations.

G. Des registres des accords étrangers seront tenus par la GRC, y compris un registre écrit des conditions des ententes verbales. La GRC indiquera sa méthode d'évaluation ou de vérification périodique de l'accord, ainsi que les dispositions relatives à l'annulation de celui-ci. Chaque année, le commissaire donnera au Ministre un compte rendu des accords conclus par la GRC avec des organisations étrangères de sécurité ou de renseignements.

H. Should any potentially controversial issue arise from such arrangements, the Commissioner shall advise the Minister in a timely fashion.

H. Dans le cas où un accord de ce genre soulèverait la controverse, le commissaire devrait en aviser le Ministre en temps opportun.



Solicitor General of Canada/
Le solliciteur général du Canada

NOV 04 2003

Date

MINISTERIAL DIRECTION
NATIONAL SECURITY
INVESTIGATIONS IN
SENSITIVE SECTORS

- A. This direction will guide the investigations of the Royal Canadian Mounted Police (RCMP), with respect to matters that fall under subsection 6(1) of the *Security Offences Act*, and investigations related to a terrorist offence or terrorist activity, as defined in section 2 of the *Criminal Code of Canada*, as they relate to sensitive sectors of Canadian society.
- B. Recognizing that there are no sanctuaries from law enforcement, special care is required with respect to RCMP investigations conducted with respect to matters that fall under subsection 6(1) of the *Security Offences Act*, and investigations related to a terrorist offence or terrorist activity, as defined in section 2 of the *Criminal Code of Canada*, which have an impact on, or which appear to have an impact on, fundamental institutions of Canadian society. Primary among these institutions are those in the sectors of academia, politics, religion, the media and trade unions.

INSTRUCTION DU MINISTRE
ENQUÊTES LIÉES À LA
SÉCURITÉ NATIONALE DANS
LES SECTEURS EXIGEANT DES
PRÉCAUTIONS SPÉCIALES

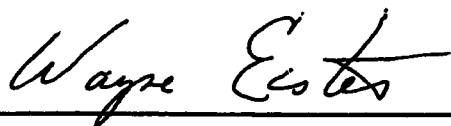
- A. Cette instruction a pour but de guider les enquêtes de la Gendarmerie royale du Canada (GRC), conformément au paragraphe 6(1) de la *Loi sur les infractions en matière de sécurité* et aux enquêtes liées aux infractions de terrorisme et aux activités terroristes, telles que définies à l'article 2 du *Code criminel du Canada*, se déroulant dans un secteur de la société canadienne exigeant des précautions spéciales.
- B. Même si rien n'échappe à l'application de la loi, il faut porter une attention particulière aux activités de la GRC menées conformément au paragraphe 6(1) de la *Loi sur les infractions en matière de sécurité* et aux enquêtes liées aux infractions de terrorisme et aux activités terroristes, telles que définies à l'article 2 du *Code criminel du Canada*, qui ont, ou semblent avoir, des répercussions sur les institutions fondamentales de la société canadienne, dont les principales sont celles qui relèvent des domaines universitaire, politique, religieux, médiatique et syndical.

C. With regards to university or post secondary campuses, in particular, it is paramount that the investigations undertaken by the RCMP do not impact upon the free flow and exchange of ideas normally associated with an academic milieu. Furthermore, the activities of the RCMP shall not adversely affect the rights or freedoms of persons associated with academic institutions.

D. It is the responsibility of the Assistant Commissioner, Criminal Intelligence Directorate at the RCMP National Headquarters, or in his/her absence, his/her appointed designate, to approve all RCMP investigations involving these sensitive sectors of Canadian society.

C. Particulièrement, en ce qui concerne les campus universitaires ou post secondaires, les activités entreprises par la GRC ne doivent en aucun cas nuire à la libre circulation et à l'échange d'idées normalement associées au milieu universitaire. En outre, les activités de la GRC ne doivent pas enfreindre les droits et libertés des personnes associées aux établissements d'enseignement supérieur.

D. Il revient au Commissaire adjoint, Direction des renseignements criminels à la direction générale de la GRC, ou, en son absence, à son délégué, d'approuver toutes les activités de la GRC liées à ces secteurs de la société canadienne exigeant des précautions spéciales.



**Solicitor General of Canada/
Le solliciteur général du Canada**

NOV 04 2003

Date

BEST AVAILABLE COPY

THE DIRECTIVES SYSTEM

Purpose and Scope

Solicitor General Directives set standards for the RCMP in selected areas of policing activity. The Directive procedure is one of the most important means by which the Minister exercises his responsibility over the Royal Canadian Mounted Police.

Effective policing requires the continued confidence and support of the public. In order to ensure that that confidence is maintained the Solicitor General must establish certain standards which balance individual rights with effective policing practices.

Application

Solicitor General Directives apply to the Force as provided in paragraph 4 below.

Authorities

Department of the Solicitor General Act, R.S.C. 1970, c. S-12, s.4 -

The duties, powers and functions of the Solicitor General of Canada extend to and include all matters over which Parliament of Canada has jurisdiction, not by law assigned to any other department, branch or agency of Government of Canada, including to ... c) the Royal Canadian Mounted Police."

LE SYSTÈME DES DIRECTIVES

1. Objet et portée

Les directives du Solliciteur général fixent des normes à l'intention de la GRC dans certains domaines de l'activité policière. Elles constituent l'un des principaux moyens par lesquels le Ministre exerce sa responsabilité à l'égard de la Gendarmerie royale du Canada.

Pour être efficaces, les services de police doivent avoir la confiance et l'appui continu du public. Afin d'assurer le maintien de cette confiance, le Solliciteur général doit établir certaines normes qui mettent en équilibre les droits individuels et des pratiques policières efficaces.

2. Application

Les directives du Solliciteur général s'appliquent à la Gendarmerie conformément aux dispositions du paragraphe 4 ci-dessous.

3. Autorisation

Loi sur le ministère du Solliciteur général, SRC 1970, c. S-12, art. 4 - "Les devoirs, pouvoirs et fonctions du Solliciteur général du Canada visent et comprennent toutes les questions qui sont du ressort du Parlement du Canada et que les lois n'attribuent pas à quelque autre ministère, département, direction ou organisme du gouvernement du Canada, concernant...c) la Gendarmerie royale du Canada".

- 2 -

Additional authority is found in the Royal Canadian Mounted Police Act, R.S.C. 1970, C. R-9, s.5:

"The Governor in Council may appoint an officer to be known as the Commissioner of the Royal Canadian Mounted Police who, under the direction of the Minister, has the control and management of the force and all matters connected therewith."

4. RCMP Role and Responsibilities

4.1. The Solicitor General's

Directives are issued to the Commissioner of the RCMP. It is left to the discretion of the Commissioner to incorporate the standards of the Directives in appropriate RCMP operational or administrative policies, Standing Orders or by other means promulgated under his authority.

4.2. It is the responsibility of the Commissioner of the RCMP to ensure the conformity of Force policies, procedures and methods to these Directives.

Inquiries

Information of a routine nature concerning Solicitor General Directives may be obtained from the Senior Assistant Deputy Solicitor General, Police and Security Branch, of the Department of the Solicitor General.

Une autorisation supplémentaire est conférée par la Loi sur la Gendarmerie royale du Canada, SRC 1970, c. R-9, art. 5:

"Le gouverneur en conseil peut nommer un officier, appelé commissaire de la Gendarmerie royale du Canada, qui, sous la direction du Ministre, est investi de l'autorité sur la Gendarmerie et de la gestion de toutes les matières s'y rattachant."

4. Rôle et responsabilité de la GRC

4.1 Les directives du Solliciteur général sont émises à l'intention du Commissaire de la GRC. Il appartient au Commissaire de faire entrer les normes des directives, selon qu'il le juge à propos, dans les politiques opérationnelles ou administratives appropriées de la GRC, dans les ordres permanents ou dans tous autres documents publiés sous son autorité.

4.2 Il incombe au Commissaire de la GRC d'assurer la conformité des politiques, procédures et méthodes de la Gendarmerie avec ces directives.

5. Demandes de renseignements

On peut obtenir des renseignements courants au sujet des directives du Solliciteur général auprès du premier adjoint du Sous-solliciteur général, Direction de la police et de la sécurité, au ministère du Solliciteur général.

6. Effective Date

Unless otherwise stated, a Directive becomes effective on the date of issue.

6. Date d'entrée en vigueur

Sauf mention contraire, une directive entre en vigueur à la date de sa publication.

7. Official Languages

All directives are to be published in both official languages. Both texts are equally authentic.

7. Langues officielles

Toutes les directives doivent être publiées dans les deux langues officielles. Les deux textes font également foi.

6917 2-1-113-1000

MINISTERIAL DIRECTIVE
ON
POLICE ASSISTANCE
TO
FOREIGN NATIONS

DIRECTIVE MINISTERIELLE
SUR
L'AIDE POLICIERE
AUX
NATIONS ETRANGERES

2007/05/30
AA to
A. Lee
000154

.1 INTRODUCTION

.1.1 Purpose and Scope

This directive provides Ministerial direction relating to the provision of police training, consultative assistance and investigative assistance to foreign countries by the RCMP. The directive establishes routine procedures to be followed in reviewing such requests and identifies the considerations that will be taken into account. Finally, the directive also delineates the respective roles and responsibilities of the departments involved and provides information on the handling of routine and non-routine cases.

.1.2 Police Assistance

In response to requests from foreign countries, Canada may provide three types of assistance:

- Police Training

Police training consists of a variety of formal courses in police administration and investigation made available at the Canadian Police College and through the RCMP's Training and Development Branch. In addition, the RCMP may provide police training outside of Canada or attachment training within Canada. (See Appendix "A".)

- Investigative Assistance

Investigative assistance involves the temporary relocation of RCMP personnel and/or technical equipment to a foreign country for

.1 INTRODUCTION

.1.1 Objet et portée

La présente directive ministérielle régit l'aide policière que la GRC fournit à des pays étrangers, aide qui comprend la formation policière, l'assistance d'ordre consultatif et l'assistance aux fins d'enquêtes. Elle établit les procédures courantes à suivre pour l'examen de demandes de ce genre et énonce les considérations dont elle devra tenir compte. Enfin, cette directive définit aussi les attributions et rôles respectifs de ministères en cause et renseigne sur la manière de procéder dans les cas courants et non exceptionnels.

.1.2 Aide policière

L'aide que peut fournir le Canada en réponse à des demandes de pays étrangers revêt trois formes:

- Formation policière

La formation policière consiste en divers cours structurés en matière d'administration de la police et d'enquêtes, qui sont offerts au Collège canadien de police, et par l'entremise de la Sous-section de la formation et du perfectionnement de la GRC. En outre, la GRC peut fournir ce genre de formation à l'extérieur du Canada ou une affectation pour formation à l'intérieur du Canada. (Voir Annexe "A".)

- Assistance aux fins d'enquêtes

L'assistance aux fins d'enquêtes implique l'affectation temporaire de personnel de la GRC et/ou de matériel technique dans un

the purpose of assisting in foreign criminal operations where the request is initiated by the foreign authority.

- Consultative Assistance

Consultative assistance consists of advising foreign governments on police training and operational methods and techniques and is undertaken both in Canada and in foreign countries.

.2 APPLICATION

This directive provides direction to the RCMP regarding the provision of police assistance to foreign countries. As well, it provides information respecting the roles and responsibilities of the Department of External Affairs.

.3 AUTHORITIES AND CANCELLATIONS

.3.1 Authorities

This directive is approved by the Solicitor General of Canada pursuant to authority provided under the Department of the Solicitor General Act, R.S.C. 1970, c.S-12, s.4 and the Royal Canadian Mounted Police Act, R.S.C. 1970, c.R-9, s.5.

.3.2 Cancellation

This directive cancels any existing Ministerial directives respecting police training, consultative and investigative assistance provided to foreign countries.

pays étranger afin d'aider à l'exécution d'enquêtes criminelles lorsque les autorités du pays en question en ont fait la demande.

- Assistance d'ordre consultatif

Cé genre d'aide consiste renseigner et conseiller les gouvernements étrangers sur la formation policière et sur les méthodes et techniques opérationnelles; elle est offerte tant au Canada que dans les pays étrangers.

.2 APPLICATION

La présente directive fournit une orientation à la GRC en ce qui concerne l'apport d'aide policière à des pays étrangers. Elle fournit en outre des précisions concernant le rôle et les responsabilités du ministère des Affaires extérieures.

.3 AUTORISATIONS ET ANNULATIONS

.3.1 Autorisations

La présente directive est approuvée par le Solliciteur général du Canada conformément aux pouvoirs que confère la Loi sur le ministère du Solliciteur général, SRC 1970, c.S-12, art. 4 et la Loi sur la Gendarmerie royale du Canada, SRC 1970, c.R-9, art. 5.

.3.2 Annulation

La présente directive annule toute directive ministérielle existante concernant la formation policière, l'assistance d'ordre consultatif et l'assistance aux fins d'enquêtes fournies à des pays étrangers.

.4 POLICE ASSISTANCE

.4.1 Objectives

The Government of Canada is prepared to provide police assistance to foreign countries within the conditions imposed by this directive. Police assistance provides a means to assist foreign countries in achieving effective and efficient law enforcement in a manner that is consistent with Canada's interest to preserve the rule of law and combat crime. Since provision of any police assistance to a repressive or otherwise unpopular regime or the provision of inappropriate assistance to any country could be harmful to Canada's reputation and the reputation of the Royal Canadian Mounted Police, procedures are established herein to ensure the careful review of all requests and the effective administration of assistance provided.

Given the nature of some types of investigational assistance and the risks encountered in some countries for Canadian police trainers, consultants or agents, it shall be necessary for the Government of Canada to be satisfied that sufficient steps have been taken to identify and protect the interests of the Crown and employees of the Crown where questions of liability arise.

.4 AIDE POLICIERE

.4.1 Objectifs

Le gouvernement du Canada est disposé à fournir de l'aide policière aux pays étrangers selon les conditions qu'impose la présente directive. Le but de l'aide policière ainsi fournie est d'aider les pays étrangers à assurer une application efficiente et efficace de la loi, d'une manière conforme à l'intérêt canadien qui est de préserver la primauté du droit et de combattre la criminalité. Etant donné que l'octroi d'une aide policière à un régime répressif ou autrement impopulaire ou l'apport d'une aide peu indiquée à un pays quelconque pourrait nuire à la réputation du Canada et à celle de la Gendarmerie royale du Canada, des procédures sont fixées par les présentes afin d'assurer l'examen attentif de toutes les demandes et la prestation efficace de l'aide consentie.

Etant donné la nature de certains types d'assistance aux fins d'enquêtes et les risques auxquels s'exposent dans certains pays les instructeurs, les conseillers ou les agents canadiens en matière de service policiers, le gouvernement du Canada devra s'assurer que l'on a pris des mesures suffisantes pour identifier et protéger les intérêts de la Couronne et des employés de la Couronne lorsque des questions de responsabilité se posent.

Since many requests for assistance seek varying degrees of subsidization, Canadian resources must be clearly identified so that claims by foreign nations on available resources do not take precedence over domestic requirements. Canadian resources are to be made available in a manner reflecting Canada's priorities which first and foremost require that domestic training needs are addressed before assistance to other countries is made available.

Finally, the nature of assistance being provided requires that the Government and the responsible Minister be assured that all assistance provided satisfies any control requirements imposed by either party to the assistance agreement.

.5 APPROVAL CRITERIA

.5.1 Political Considerations

The nature of police assistance requires the careful political analysis and assessment of each request in order to delineate the benefits and degree of risk that accrue to both Canada and the RCMP.

Some of the political risks to Canada and the Force in the international community may be easily identified. Should standard forms of assistance be provided to repressive or otherwise unpopular regimes or

Comme de nombreuses demandes d'assistance recherchent des subventions à des degrés divers, il faut déterminer avec précision les ressources canadiennes à offrir afin que les ressources disponibles ne soient pas mises à contribution en faveur des nations étrangères au détriment des besoins nationaux. Les ressources canadiennes doivent être libérées dans ce dessein d'une manière qui tienne compte des priorités du Canada, selon lesquelles il faut répondre tout d'abord aux besoins de la formation sur le plan national avant de consentir une aide à d'autres pays.

Enfin, en raison du caractère de l'aide fournie, le gouvernement et le ministre responsable doivent avoir l'assurance que celle-ci répond à toutes les exigences de contrôle qu'impose l'une ou l'autre des parties à l'accord d'assistance.

.5 CRITERES D'APPROBATION

.5.1 Considérations d'ordre politique

La nature de l'aide policière nécessite une analyse politique approfondie et une évaluation prudente de chaque demande afin de déterminer les avantages et la mesure de risques qui en découlent tant pour le Canada que pour la GRC.

Certains des risques politiques qui se posent pour le Canada et la Gendarmerie au sein de la communauté internationale peuvent être facilement reconnus. Si des formes courantes d'assistance sont

should inappropriate assistance (e.g. assistance which is, in fact or in appearance, related to internal security) be provided to any country, irreparable harm could be done to the international reputation of both Canada and the RCMP.

Such considerations point to the need to evaluate all requests in light of the following political considerations:

- (1) The benefits to Canada in the conduct of its foreign affairs;
- (2) The extent to which the country enforces its statutes in accordance with the rule of law and recognition of citizens' rights;
- (3) The political stability of the country.

.5.2 Financial Considerations

In considering police assistance to foreign countries, it is the intent of this policy that monies and resources expended for police assistance reflect first and foremost the priorities of the Canadian police community. Secondly, the costs of such assistance must be in keeping with Government priorities and be monitored through appropriate financial control procedures.

.5.2.1 Police Training

Many requests for police training in Canada (CPC or RCMP) come from countries in need of financial assistance to support their request.

fournies à des régimes répressifs autrement impopulaires, ou si l'on accorde à un pays une aide peu indiquée (par ex. une aide qui, de fait ou en apparence, a trait à la sécurité interne), la réputation internationale du Canada et de la peut subir des torts irréparables.

Il est donc nécessaire d'évaluer toutes les demandes à la lumière des considérations politiques suivantes:

- (1) Les avantages qui en résulteront pour le Canada de la conduite de ses affaires étrangères;
- (2) La mesure dans laquelle le pays en question applique ses lois conformément à la primauté du droit et au respect des droits de ses citoyens.
- (3) La stabilité politique du pays

.5.2 Considérations d'ordre financier

Quand on envisage une aide policière à des pays étrangers, les sommes d'argent et les ressources dépensées à ce titre doivent tenir compte tout d'abord des priorités de l'ensemble des services canadiens de police. Deuxièmement, les coûts de l'aide doivent respecter les priorités gouvernementales et faire l'objet du contrôle financier qui s'impose.

.5.2.1 Formation policière

De nombreuses demandes de formation policière au Canada (CCP ou GRC) émanent de pays qui ont besoin d'une aide financière à l'appui de leur demande.

The RCMP is therefore authorized to underwrite course costs at the Canadian Police College and RCMP Training for all foreign students. Travel, accomodation and meal costs may be covered by the RCMP with Treasury Board approval.

.5.2.2. Investigative Assistance

When it is of interest to Canada to provide investigative assistance to other countries in the form of RCMP personnel and/or technical equipment, related expenses may be shared or borne by the Force. Countries requesting and receiving investigative assistance are expected to assume related costs in the absence of other funding arrangements approved by Treasury Board.

.5.2.3. Consultative Assistance

Consultative assistance consists of advising foreign governments on police training and investigative operational methods and techniques. When such assistance is provided within Canada, related costs shall be borne by the Force. In instances where a request requires RCMP members, with or without technical equipment, to travel outside of Canada, related costs shall be recovered from the government requesting the assistance unless some subsidization has been agreed upon.

La GRC est donc autorisée à engager les dépenses de cours au Collège canadien de police et à la Sous-section de la formation de la GRC en faveur de tous les étudiants étrangers. Elle peut assumer les frais de déplacement, de logement de repas avec l'approbation du Conseil du Trésor.

.5.2.2 Assistance aux fins d'enquêtes

Quand il est dans l'intérêt du Canada de fournir de l'aide aux fins d'enquêtes à d'autres pays sous la forme de personnel de la GRC et/ou de matériel technique, les dépenses afférentes peuvent être partagées ou assumées par la Gendarmerie. Les pays qui demandent et reçoivent de l'assistance à des fins d'enquêtes doivent assumer les dépenses qui s'y rattachent, en l'absence d'autres dispositions de financement approuvées par le Conseil du Trésor.

.5.2.3 Assistance d'ordre consultatif

L'assistance d'ordre consultatif consiste à renseigner et à conseiller les gouvernements étrangers au sujet de la formation policière et des méthodes et techniques opérationnelles d'enquêtes. Quand ce genre d'aide est fourni au Canada même, la Gendarmerie assumera les frais qui s'y rattachent. Dans le cas des demandes qui exigent que des membres de la GRC, avec ou sans matériel technique, se rendent à l'étranger, les frais afférents seront récupérés auprès du gouvernement qui a demandé l'aide, à moins que l'on ait convenu d'une forme de subventions.

liability protection that is extended to members performing their duties in Canada insofar as this is possible. In any event the degree of liability protection will be clarified to all parties to ensure understanding of their respective rights, and the extent to which protection abroad might differ with protection afforded in Canada.

In order to afford the Crown and involved parties appropriate protection when responding to a request for assistance from a foreign country, a standard form agreement that apportions liability shall be signed by Canada and the country being granted assistance. Each agreement shall identify and communicate to the officers involved and to their respective governments the extent of their liability.

In reviewing approved requests for assistance and/or training, RCMP Legal Services shall in every instance, employ a formal agreement that specifies the liabilities of the parties thereto. The agreement in respect to liability shall encompass the following:

- (i) The extent of the liabilities to be assumed by the Crown.
- (ii) Responsibilities for injuries caused to others by RCMP members, sources, or agents acting outside of Canada.

Gendarmerie, recevront la même protection contre la responsabilité civile que celle dont jouissent les membres qui remplissent leurs fonctions au Canada, dans toute la mesure du possible. De toute façon on précisera à toutes les parties l'étendue de la protection contre responsabilité civile afin de s'assurer qu'elles comprennent bien leurs droits respectifs et la mesure dans laquelle la protection à l'étranger pourrait différer de la protection accordée au Canada.

Afin d'assurer à la Couronne et aux parties en cause la protection qui convient quand on répond favorablement à une demande d'assistance émanant d'un pays étranger, une entente sous une forme normalisée qui détermine les responsabilités respectives sera signée par le Canada et le pays qui reçoit l'aide. Chaque entente de ce genre déterminera l'étendue des responsabilités des parties et la fera connaître aux agents en cause et à leurs gouvernements respectifs.

En examinant les demandes approuvées d'aide et/ou de formation, les services juridiques de la GRC auront recours dans chaque cas à une entente officielle qui précise les responsabilités des parties. L'entente concernant la responsabilité englobera ce qui suit:

- (i) L'étendue des responsabilités que doit assumer la Couronne.
- (ii) Les responsabilités en cas de torts ou blessures causés à d'autres par des membres, sources ou agents de la GRC agissant à l'extérieur du Canada.

- (iii) Responsibility for RCMP members, sources or agents injured outside of Canada.
 - (iv) Responsibility for injuries caused to others by foreign officers, agents or sources acting in Canada.
 - (v) Responsibility for injuries incurred by foreign police officers, sources or agents while in Canada.
 - (vi) Saving harmless RCMP members, sources and agents in respect of prosecutions under foreign law, when acting in accordance with their duties.
 - (vii) Saving harmless foreign police officers, sources and agents when acting in accordance with their duties, in respect to prosecution under Canadian law.
- (iii) La responsabilité à l'égard d membres, de sources ou d'agen de la GRC qui sont blessés à l'extérieur du Canada.
 - (iv) La responsabilité en cas de torts ou blessures causés à d'autres par des officiers, agents ou sources de l'étrange agissant au Canada.
 - (v) La responsabilité en cas de torts ou blessures subis par des officiers, sources ou agents de police étrangère pendant qu'ils se trouvent au Canada.
 - (vi) Des dispositions tenant à protéger les membres, sources et agents de la GRC des poursuites intentées selon la loi étrangère, quand ils agissent conformément à leurs fonctions.
 - (vii) Des dispositions tenant à protéger les officiers, sources et agents de la police étrangère des poursuites intentées selon la loi canadienne, quand ils agissent conformément à leurs fonctions.

If in the judgement of the Commissioner the terms of an agreement have been violated or it has become impractical to continue providing the requested assistance, he may recommend to the Solicitor General that the agreement be terminated.

S'il estime que les modalités d'une entente ont été violées ou qu'il est devenu impossible de continuer de fournir l'aide demandée, le Commissaire peut recommander au Solliciteur général qu'il soit mis fin à l'entente.

.5.4 Control Considerations

Some of the technical assistance provided by Canada, involves devices that have the potential for abuse if not carefully controlled. Similarly, certain training courses relating to the collection and analysis of criminal intelligence, involve methods and techniques that may be easily transferred to security or intelligence environments.

In reviewing requests for assistance that include access to sensitive equipment or easily abused methods and techniques, the possibility of a favourable decision shall require firstly, that the risks of potential abuse have been identified and, secondly, that feasible measures of control devised by the RCMP and acceptable to both parties are instituted by agreement so as to minimize these risks.

Considerations of control to be taken into account in the review of a request include:

- (i) The nature of the request.
- (ii) The ability to identify and control attendant risks.
- (iii) The acceptability of control measures by the foreign country making the request.

.5.4 Considérations relatives au contrôle

Une partie de l'assistance technique fournie par le Canada fait intervenir des dispositifs qui peuvent se prêter à des abus si l'on n'exerce pas un contrôle attentif. De même, certains cours de formation qui ont trait à la collecte et à l'analyse de renseignements criminels font appel à des méthodes et à des techniques qui peuvent être facilement transférées aux plans de la sécurité ou sur du renseignement

Quand on examine des demandes d'assistance comportant l'accès à de l'équipement secret ou des méthodes et techniques qui se prêtent facilement à des abus, il faudra, avant qu'une décision favorable soit possible, que l'on ait déterminé les risques d'abus éventuels et, deuxièmement, que des mesures de contrôle réalisables, conçues par la GRC et acceptables pour les deux parties, soient établies d'un commun accord afin de minimiser ces risques.

Les éléments à prendre en considération, du point de vue de contrôle, au moment de l'examen d'une demande sont notamment:

- (i) La nature de la demande.
- (ii) La capacité de déterminer et de maîtriser les risques afférents.
- (iii) Si le pays étranger dont émane la demande juge acceptable des mesures de contrôle.

Some requests for assistance are made directly to the Solicitor General, the Commissioner or other senior RCMP officials. Replies to such requests should indicate the routine procedures to be followed.

Requests sent directly to the Prime Minister shall be forwarded to the Secretary of State for External Affairs, for action in conformity to procedures set out in this policy.

.6.2 Routine Requests

Routine requests are those that involve types of assistance and training that the RCMP regularly offers to other Canadian police forces at the Canadian Police College and through its Training and Development Branch. Once such requests from foreign governments have been reviewed by External Affairs and their comments and recommendations have been forwarded to the Commissioner of the RCMP, the Commissioner shall have the authority and responsibility to approve the requests.

.6.3 Non-Routine Requests

Non-routine requests are those which:

- 1) Require the use of RCMP members, agents or sources, or Crown property outside of Canada;
- 2) Involve courses whose content includes classified information;

Certaines demandes d'assistance sont présentées directement au Solliciteur général au Commissaire ou à d'autres officiers supérieurs de la GRC. Les réponses à ces demandes doivent indiquer les procédures courantes à suivre.

Les demandes envoyées directement au Premier ministre seront transmises au Secrétaire d'Etat aux Affaires extérieures qui agira conformément aux procédures énoncées dans la présente politique

.6.2 Demandes courantes

Les demandes courantes sont celles qui portent sur les types d'assistance et de formation que la GRC offre normalement à d'autres corps canadiens de police au Collège canadien de police et par l'intermédiaire de sa Sous-section de la formation et du perfectionnement. Lorsque les demandes provenant de gouvernements étrangers auront été examinées par le ministère des Affaires extérieures et que leurs commentaires et recommandations auront été transmis au Commissaire de la GRC, celui-ci sera habilité à les approuver.

.6.3 Demandes Exceptionnelles

Les demandes exceptionnelles sont celles qui:

- 1) nécessitent l'emploi de membres, d'agents ou de sources de la GRC, ou de biens de la Couronne en dehors du Canada;
- 2) portent sur des cours qui renferment de l'information classifiée;

- 13 -

- 3) Involve courses whose content is applicable to security or intelligence operations;
 - 4) Involve foreseeable risk to the safety of RCMP members, agents or sources or to the reputation of the Government of Canada and/or the RCMP;
 - 5) Involve agreements to be signed by members of the political executive of the country requesting assistance;
 - 6) Do not otherwise meet the conditions set down in this policy.
- 3) portent sur des cours dont la matière est applicable des opérations de sécurité ou de renseignements;
 - 4) entraînent des risques prévisibles pour la sécurité des membres, agents ou sources de la GRC ou pour la réputation du gouvernement du Canada et/ou de la GRC;
 - 5) impliquent des ententes qu doivent signer des membres du pouvoir exécutif du pays qui demande l'assistance;
 - 6) qui ne répondent pas autrement aux conditions fixées dans la présente politique.

The review of such requests will follow routine procedures as set out above, except that such requests will require the approval of the Solicitor General who shall receive such requests from the Commissioner, along with his recommendations and those provided by the Department of External Affairs.

Pour l'examen de ces demandes, on se conformera aux procédures courantes énoncées ci-dessus, sauf que ces demandes nécessiteront l'approbation du Solliciteur général qui les recevra du Commissaire, avec les recommandations de celui-ci et celles du ministère des Affaires extérieures.

.6.3.1 Urgent Response Requests

Urgent response requests are those that require that assistance be provided within 48 hours. When such requests for assistance originate from foreign law enforcement agencies, they may be transmitted directly to RCMP Headquarters, Ottawa. Liaison officers shall provide information reports on such requests to the appropriate Canadian Head of Post. In urgent response situations, the Force shall itself make a decision on the request in conformity with the considerations and requirements set out in this directive. Where such requests are of a non-routine nature, the Minister must be informed without delay. In all other cases, summary reports shall be submitted quarterly to the Solicitor General.

.6.4 Role and Responsibilities - External Affairs

The Department of External Affairs shall review all requests and forward to the Commissioner of the RCMP any recommendations and all information it considers pertinent to the request in relation to general Canadian foreign policy considerations. A letter conveying this advice shall be forwarded to the Solicitor General for information.

.6.3.1 Demandes urgentes

Les demandes d'assistance urgentes sont celles auxquelles on doit donner suite dans les 48 heures. Lorsqu'elles proviennent d'organismes étrangers d'application de la loi, ces demandes d'assistance peuvent être transmises directement à la Direction générale de la GRC, à Ottawa. Les agents de liaison devront fournir des rapports d'information concernant ces demandes au chef de mission canadien compétent. Dans les situations où une intervention immédiate est nécessaire, la Gendarmerie devra elle-même prendre la décision, conformément aux considérations et exigences énoncées dans la présente directive. Lorsque ces demandes sont de nature exceptionnelle, on doit en informer le Ministre sans tarder. Dans tous les autres cas, on présentera des rapports sommaires au Solliciteur général tous les trimestres.

.6.4 Rôle et Responsabilités - Affaires extérieures

Le ministère des Affaires extérieures examinera toutes les demandes et adressera au Commissaire de la GRC toutes recommandations et tous renseignements qu'il juge pertinents et tous renseignements qu'il juge pertinents en fonction des considérations générales de politique étrangère canadienne. Une lettre communiquant cet avis sera envoyée au Solliciteur général à titre d'information.

.7 REPORTING REQUIREMENTS

.7.1 RCMP

By June 1st each year the RCMP shall provide a report to the Solicitor General, on a preceding report to the Solicitor General, on a preceding fiscal year basis, containing the following information:

- Countries to which any assistance was provided and the type and cost of assistance provided during the reporting period.
- Whether any reports or comments were received from police or government authorities in countries to which assistance was provided. Where complaints were received, information on the nature of each complaint and its resolution.
- Whether there arose any issues involving Crown or personal liability. Where issues of liability did arise, information on each case and its resolution.
- Any recommendations respecting this policy or its administration.

.7 RAPPORTS

.7.1 GRC

Au 1er juin de chaque année, la GRC présentera au Solliciteur général un rapport établi sur la base de l'année financière précédente et renfermant les informations suivantes:

- Les pays qui ont reçu de l'aide, ainsi que le type et le coût de l'aide fournie au cours de la période de rapport.
- Si l'on a reçu ou non des rapports ou commentaires émanant des services de police ou des autorités gouvernementales des pays qui ont bénéficié de l'aide. Si l'on a reçu des plaintes, des renseignements sur la nature de chaque plainte et la solution donnée.
- S'il s'est posé des questions de responsabilité de la Couronne ou de responsabilité personnelle. Si des problèmes de ce genre ont surgi, des renseignements sur chaque cas et sur la solution apportée.
- Toute recommandation concernant la présente politique ou son application.

At each quarter of the year, the RCMP shall provide a summary report on the non-routine urgent response requests for assistance from foreign law enforcement agencies, including the following:

- brief description of requirement for assistance
- country to which assistance was provided
- human and financial resources utilized to respond to request.

.7.2 External Affairs

The Department of External Affairs shall on its own initiative advise the Solicitor General of Canada and the Commissioner of the RCMP of any new priorities in the conduct of foreign relations which it feels should be taken into consideration in decisions made by the Commissioner and the Minister.

.8 ENQUIRIES

All enquiries regarding this policy should be routed through RCMP Headquarters. For interpretation of the content of this policy, Departmental Headquarters should contact the Senior Assistant Deputy Minister of the Police and Security Branch of the Ministry Secretariat.

A chaque trimestre, la GRC doit présenter sur les demandes d'assistance urgentes provenant d'organismes étrangers d'application de la loi, un rapport sommaire comprenant, entre autres, les renseignements suivants:

- une brève description du besoin d'assistance
- le pays auquel l'aide a été fournie
- les ressources humaines et financières utilisées pour répondre à la demande.

.7.2 Ministère des Affaires extérieures

Le ministère des Affaires extérieures, de sa propre initiative, fera connaître au Solliciteur général du Canada et au Commissaire de la GRC toutes nouvelles priorités, dans la conduite de ses relations avec l'étranger, qui, à son avis, doivent être prises en considération dans les décisions que font le Commissaire et le Ministre.

.8 DEMANDES DE RENSEIGNEMENTS

Toutes demandes de renseignements concernant la présente politique doivent être acheminées par l'intermédiaire de la Direction générale de la GRC. En ce qui concerne l'interprétation de la teneur de la présente politique, les administrations centrales doivent communiquer avec le Sous-ministre adjoint principal de la Direction de la police de la sécurité du Secrétariat du Ministère.

APPENDIX A

ANNEXE A

APPROVED TYPES OF POLICE TRAINING,
INVESTIGATIVE AND
CONSULTATIVE ASSISTANCE

TYPES APPROUVES DE FORMATION
POLICIERE, D'ASSISTANCE AUX FINS
D'ENQUETES ET D'ASSISTANCE D'ORDRE
CONSULTATIF

Police Training

Formation policière

The following are the approved types of police training and consultative assistance.

Voici les types approuvés de formation policière et d'assistance consultative.

- (1) Attachment Training - assignment to a RCMP Unit within Canada provided the individual to be attached is actively engaged in duties connected with the attachment and will continue to be so employed.
- (2) On-site Training - assignment of a RCMP Team to the requesting country to develop trainers and/or to provide specific law enforcement courses.
- (3) Consultative Services - assignment of a RCMP Team to the requesting country to review training/investigate systems and facilities and make recommendations.
- (4) RCMP Training Courses - allotment of positions on existing RCMP Courses within Canada.
- (5) C.P.C Training Courses - allotment of positions on existing courses within Canada.
- (6) Investigative Assistance - the use of RCMP members, agents and sources, and Crown property outside of Canada at the request of a foreign country!

- (1) Affectation pour formation - affectation auprès d'une unité de la GRC au Canada, à condition que l'intéressé exerce activement des fonctions reliées à cette affectation et qu'il continue d'être employé ce titre.
- (2) Formation sur les lieux - envoi d'une équipe de la GRC dans le pays qui a fait la demande, pour former des instructeurs et/ou pour donner des cours spécifiques en matière d'application de la loi.
- (3) Services consultatifs - envoi d'une équipe de la GRC dans le pays qui a fait la demande, pour examiner la formation, les systèmes et les installations et faire des recommandations.
- (4) Cours de formation de la GRC - attribution de places dans le cadre des cours existants de la GRC au Canada.
- (5) Cours de formation du CCP - attribution de places dans le cadre des cours existants au Canada.
- (6) Assistance aux fins d'enquêtes - l'emploi de membres, agents et sources de la GRC, et de biens de la Couronne en dehors du Canada, à la demande d'un pays étranger.

MINISTERIAL DIRECTIVE
RELEASE OF CRIMINAL RECORD
INFORMATION BY THE
THE ROYAL CANADIAN MOUNTED POLICE

This directive cancels any existing Ministerial directives respecting the release of Criminal Record Information.

GENERAL

For the purpose of this directive, Criminal Record Information means criminal records, fingerprints and photographs maintained by the RCMP. These records may be made available as specified in this document.

REFERENCES

- a) Identification of Criminals Act
- b) Criminal Records Act
- c) Young Offenders Act
- d) Privacy Act
- e) Cabinet Directive #35 (Security in the Public Service of Canada)
- f) RCMP Administration Manual III.5.C.

DIRECTIVE MINISTÉRIELLE CONCERNANT
LA DIVULGATION PAR LA GENDARMERIE
ROYALE DU CANADA DE RENSEIGNEMENTS
SUR LES ANTECEDENTS JUDICIAIRES

La présente directive annule toute directive ministérielle existante concernant la divulgation de renseignements sur les antécédents judiciaires.

GÉNÉRALITÉS

Aux fins de la présente directive, on entend par renseignements sur les antécédents judiciaires les casiers judiciaires, les empreintes digitales et les photographies conservées par la G.R.C. Ces pièces peuvent être communiquées aux conditions indiquées ci-après.

RÉFÉRENCES

- a) La Loi sur l'identification des criminels
- b) La Loi sur le casier judiciaire
- c) La Loi sur les jeunes contrevenants
- d) La Loi sur la protection des renseignements personnels
- e) La Directive du Cabinet No 35 (Sécurité dans la Fonction publique du Canada).
- f) L'article III.5.C. du Manuel d'administration de la G.R.C.

.../2

POLICY

Criminal Record Information may be released to the following:

1. Canadian police forces, crown prosecutors and enforcement/ investigative bodies of federal or provincial government departments; and on a reciprocal basis only, foreign police forces, prosecutors and enforcement/ investigative bodies of government departments; for use in connection with their official duties and responsibilities in relation to the enforcement or administration of the Law.
2. Insurance Crime Prevention Bureaux for use when assisting Canadian Police Forces in the investigation of arson, auto theft and related offences, such as conspiracy, fraud, and possession of stolen property.
3. Research groups conducting studies which are related to the execution or administration of the law, including evaluation of treatment or correctional programs, when the research is being conducted by or on behalf of a Canadian Police Force, a provincial or federal correctional or parole service, a provincial Attorney or Solicitor General, a federal/provincial Minister of Justice or the Solicitor General of Canada.

POLITIQUE

Les renseignements sur les antécédents judiciaires peuvent être divulgués:

1. Aux services de police, aux procureurs de la Couronne et aux organismes d'enquête et d'application de la loi des gouvernements fédéral ou provinciaux du Canada et sur une base de réciprocité seulement, aux services de police, aux procureurs ainsi qu'aux organismes d'enquête et d'application de la loi des différents ministères publics à l'étranger, pourvu que ce soit à des fins reliées à leurs responsabilités et à leurs fonctions officielles en matière d'exécution ou d'application de la loi.
2. Aux Services anti-crime des assureurs lorsqu'ils sont appelés à aider des services de police canadiens à faire enquête sur des incendies criminels, des vols de véhicules ou des crimes du même genre, tels que les complots, la fraude et la possession de biens volés.
3. Aux groupes de recherche chargés d'études relatives à l'exécution ou à l'application de la loi, y compris de l'évaluation des programmes correctionnels et de traitement, lorsque ces études sont menées par un service de police canadien, un service correctionnel ou de libération conditionnelle fédéral ou provincial, un procureur ou solliciteur général provincial, un ministre de la Justice fédéral ou provincial ou le Solliciteur général du Canada, ou au nom de l'un d'entre eux.

4. Canadian parole and probation agencies; and on a reciprocal basis only, foreign parole and probation agencies; for use in connection with their official duties and responsibilities in relation to the execution or administration of the law.
5. Canadian correctional services; and on a reciprocal basis only, foreign correctional services; for purposes of prevention of crime, preserving security of the institution and custodial requirements.
6. Departmental Security Officers of federal/provincial Departments, Crown Corporations and other federal/provincial agencies with respect to applicants for employment and employees in positions where they will have access to classified information or who by the nature of their duties are required to be checked for reliability.
7. Citizenship Registration Branch with respect to applicants for Canadian citizenship.
8. Chief Supervisor, Race Track Supervision, Department of Agriculture, with respect to those race track pari-mutual employees who must provide fingerprints for purposes of security or identification under the Race Track Supervision Regulations made pursuant to the Criminal Code.
4. Aux organismes canadiens chargés de la liberté conditionnelle et surveillée; et sur une base de réciprocité seulement, aux organismes étrangers chargés de la liberté conditionnelle et surveillée; pourvu que ce soit à des fins reliées à leurs responsabilités et à leurs fonctions officielles en matière d'exécution ou d'application de la loi.
5. Aux services correctionnels canadiens et, sur une base de réciprocité seulement, à leurs homologues étrangers, afin de prévenir le crime, assurer la sécurité de leurs institutions et satisfaire aux exigences relatives à la détention.
6. Aux agents de sécurité des ministères fédéraux et provinciaux, des sociétés de la Couronne et des autres organismes fédéraux et provinciaux, aux fins du triage sécuritaire des personnes qui postulent un emploi dans ces organisations et des employés qui auront accès à des renseignements de nature classifiée ou qui, par leurs fonctions, doivent faire l'objet d'une enquête de fiabilité.
7. A la Direction de l'enregistrement de la citoyenneté au sujet des personnes qui demandent la citoyenneté canadienne.
8. A l'inspecteur en chef du Service de surveillance des hippodromes, ministère de l'Agriculture, concernant les préposés au pari-mutuel qui doivent faire prendre leurs empreintes digitales à des fins de sécurité ou d'identification en vertu du Règlement sur la surveillance des hippodromes, conformément au Code Criminel.

9. The Canadian Corps of Commissionaires with respect to the applicants for engagement in that organization.
 10. Individuals who are entitled to copies of their own records under the Privacy Act and individuals who request their records for purposes of obtaining visas, foreign work permits, border-crossing cards, other documents for immigration, foreign travel entry into Canada or for humanitarian reasons.
 11. Department of External Affairs with respect to Canadians, landed immigrants or persons who have resided in Canada who are applying for employment in foreign embassies and consulates.
 12. Canadian police forces, correctional services and enforcement/investigative bodies of federal/provincial government departments; and on a reciprocal basis only, foreign police forces and correctional services and enforcement/investigative bodies of government departments; for use in determining the reliability of applicants for employment with these agencies.
 13. Federal/provincial/municipal government agencies responsible for licencing.
9. Au Corps canadien des commissionaires, au sujet des personnes qui postulent un emploi au sein de cette organisation.
 10. Aux personnes autorisées à recevoir une copie de leur propre dossier aux termes de la Loi sur la protection des renseignements personnels et à celles qui ont besoin de leur dossier pour obtenir un visa, un permis de travail à l'étranger, une carte pour traverser la frontière ou autres documents à des fins d'immigration, de voyage à l'étranger, d'entrée au Canada ou pour des raisons humanitaires.
 11. Au ministère des Affaires extérieures concernant les citoyens canadiens, les immigrants reçus ou les ex-résidents qui postulent un emploi dans une ambassade ou un consulat étranger.
 12. Aux corps policiers, aux services correctionnels et aux services d'enquête et d'application des lois fédérales et provinciales du Canada et, sur une base de réciprocité seulement, à leurs homologues étrangers, afin de déterminer la fiabilité des personnes qui postulent un emploi au sein de ces organisations.
 13. Aux organismes fédéraux, provinciaux et municipaux chargés d'émettre des permis.

.../5

14. Police forces who, in the public interest and for purposes of preventing crime, are required to make recommendations as to the reliability of a person for a particular type of position such as, but not limited to, firemen, school bus drivers and crossing guards, block parents, big brothers and big sisters.

15. Those agencies or persons authorized to receive criminal record information under authority of the Young Offenders Act.

14. Aux services de police qui, dans l'intérêt du public et afin de prévenir le crime, sont tenus de faire des recommandations relatives à la fiabilité des personnes appelées à exercer certains genres de fonctions, par exemple celles de pompier, de conducteur d'autobus scolaire et de brigadier, de parent-secours, de grand frère et de grande soeur.

15. Aux personnes ou organisations autorisées à recevoir des renseignements sur les antécédents criminels aux termes de la Loi sur les jeunes contrevenants.

REQUIREMENT FOR FINGERPRINTS

Fingerprints will be required for positive identification before criminal records are released, EXCEPT that this requirement may be waived when information or criminal records are requested for:

- (a) use in the investigation of offences or other law enforcement purposes, custodial responsibilities or the administration of justice
- (b) prosecutions
- (c) crime prevention purposes such as screening visitors to correctional institutions, screening persons having contact with parolees, screening persons involved with the security of internationally protected persons or involved in security at major public events

EXIGENCE DES EMPREINTES DIGITALES

On exigera les empreintes digitales pour s'assurer de l'identité de la personne intéressée avant de divulguer son casier judiciaire, MAIS on pourra passer outre à cette exigence lorsque les renseignements ou les casiers judiciaires sont sollicités pour:

- (a) des enquêtes judiciaires ou dans un autre but relié à l'application de la loi, pour des fins de détention ou pour l'administration de la justice
- (b) des poursuites
- (c) la prévention du crime, notamment au triage sécuritaire de visiteurs dans des institutions correctionnelles, de personnes en contact avec des individus en liberté conditionnelle ou de celles qui sont chargées de protéger des gens bénéficiant d'une protection internationale ou d'assurer la sécurité à des événements publics importants

- (d) the preparation of security assessments pursuant to Section 13 of the Canadian Security Intelligence Service Act or the investigation of threats to the security of Canada (as defined in Section 2 of the Canadian Security Intelligence Service Act).
- (e) parole purposes when it is not possible to obtain fingerprints of the parole applicant or when the parole officer knows the individual and has his FPS number
- (f) probation and pre-sentence purposes when it is not possible to obtain fingerprints or when the probation officer knows the individual and has his FPS number
- (g) research purposes
- (h) purposes authorized by the Young Offenders Act and it is not possible to obtain fingerprints.
- (d) la préparation d'évaluation de sécurité selon l'article 13 de la Loi concernant le Service canadien du renseignement de sécurité ou aux enquêtes sur des menaces envers la sécurité du Canada (tel que défini à l'article 2 de la Loi concernant le Service canadien du renseignement de sécurité).
- (e) des fins de la libération conditionnelle lorsqu'il est impossible d'obtenir les empreintes du requérant ou que l'agent des libérations conditionnelles connaît cette personne et son numéro FPS
- (f) des fins de la probation ou du rapport pré-sentenciel lorsqu'il est impossible d'obtenir les empreintes digitales d'un sujet ou que l'agent de probation connaît cette personne et son numéro FPS
- (g) des fins de recherche, et
- (h) des fins autorisées par la Loi sur les jeunes contrevenants lorsqu'il est impossible d'obtenir des empreintes digitales.

.../7

- 7 -

IMPROPER USE OR DISSEMINATION OF
CRIMINAL RECORD INFORMATION

Where there is an indication that an agency referred to in this document has improperly used or disseminated Criminal Record Information or has failed to purge or return such information when requested to do so, enquiries will be conducted and where warranted, steps shall be taken to have the situation corrected. Failure to comply with the intent of this directive by any of the agencies may result in the modification, suspension or cancellation of these services.

DIVULGATION OU UTILISATION INCORRECTE
DE RENSEIGNEMENTS SUR LES ANTECEDENTS
JUDICIAIRES

Lorsqu'il appert qu'un organisme dont il est fait mention dans ce document a divulgué ou utilisé de manière incorrecte des renseignements sur des antécédents judiciaires ou omis de détruire ou de retourner ces renseignements comme cela lui avait été demandé, une enquête sera menée et, au besoin, les mesures qui s'imposent seront prises pour corriger la situation. Tout organisme qui ne se conforme pas à cette directive peut voir ces services modifiés, suspendus ou annulés.

APPROVED BY:
APPROUVÉ PAR:

Original signed by
Ferrin Beatty
Solicitor General of Canada
Solliciteur général du Canada

Dated this _____ day
En date du 15 jour

of
de December 1985

at Ottawa, Ontario.
à Ottawa (Ontario).

MINISTERIAL DIRECTIVE ON RCMP
LAW ENFORCEMENT AGREEMENTS

DIRECTIVE MINISTÉRIELLE SUR
LES ENTENTES DE LA GRC EN
MATIÈRE D'APPLICATION DE LA
LOI

1. INTRODUCTION

The RCMP provides law enforcement services or assistance to departments and agencies of Federal, Provincial, Municipal and foreign governments and reciprocally receives similar assistance and services. The purpose of this Directive is to provide Ministerial guidance to the RCMP regarding the establishment of individual or mutual obligations through agreements, arrangements or other understandings; hereinafter referred to as agreements.

2. AUTHORITIES

This Directive is issued by the Solicitor General of Canada pursuant to authority provided under the Department of the Solicitor General Act, R.S.C. 1970, c.S-12, s.4 and the Royal Canadian Mounted Police Act, R.S.C. 1970, c.R-9, s.5.

3. SCOPE

3.1 From time to time, in order to comply with legal requirements and RCMP operational practices, the RCMP may consider it necessary to formalize, through agreements,

1. INTRODUCTION

La GRC échange des services ou de l'aide en matière d'application de la loi aux ministères et organismes du gouvernement fédéral, ainsi qu'aux provinces, aux municipalités et à des gouvernements étrangers. La présente directive a pour objet de fournir à la GRC des lignes directrices ministérielles concernant l'établissement d'obligations unilatérales ou bilatérales par le biais d'ententes, d'arrangements ou d'accords, appelés ci-après ententes.

2. AUTORISATIONS

La présente directive est émise par le Solliciteur général du Canada en vertu de l'autorité qui lui est conférée par la Loi sur le ministère du Solliciteur général, SRC 1970, c.S-12, art. 4, et par la Loi sur la Gendarmerie royale du Canada, SRC 1970, c.R-9, art. 5.

3. PORTÉE

3.1 De temps à autre, pour respecter la loi et ses pratiques opérationnelles, la GRC peut estimer nécessaire d'officialiser, par le biais d'ententes, des

individual or mutual obligations respecting important administrative and operational matters affecting the professional police procedures of the RCMP.

obligations unilatérales ou bilatérales concernant des questions administratives et opérationnelles importantes ayant trait aux méthodes de travail des agents de la GRC.

3.2 This Directive establishes general principles and standards to govern such agreements, identifies those types of agreements requiring Ministerial approval and signature, and sets out the procedures to be followed in the administration of the agreements. This Directive is not intended to apply to agreements which the Force has entered into that deal with routine administrative or operational matters.

3.2 La présente Directive énonce les normes et les principes généraux qui régissent ces ententes, elle précise les catégories d'ententes nécessitant l'approbation et la signature du Ministre et elle définit la procédure à suivre au cours de l'exécution des ententes. La présente Directive n'est pas réputée s'appliquer à toutes les ententes conclues par la Gendarmerie qui portent sur des questions courantes d'ordre administratif ou opérationnel.

4. PRINCIPLES

4.1 Agreements shall be concluded by RCMP representatives authorized to do so and shall be supported by legal advice attesting to the legality of the agreement and the proposed obligations that are to be undertaken.

4.2 Agreements shall be consistent with and relate to the mandated responsibilities of all parties.

4.3 Agreements with foreign entities shall be established and maintained, for the time specified in the

4. PRINCIPES

4.1 Les ententes doivent être conclues par des représentants autorisés de la GRC et doivent se fonder sur des conseils juridiques attestant leur légalité et celle des obligations proposées qui doivent être assumées.

4.2 Les ententes doivent correspondre aux responsabilités déléguées de toutes les parties.

4.3 Les ententes avec des organes étrangers doivent être conclues et maintenues, pendant la période qui y est

agreement, so long as the scope and extent of such agreements are and remain compatible with Canada's foreign policy.

4.4 Agreements are to be in conformity with the law and with governmental and departmental policies. Informal channels or arrangements are not to be developed or utilized to circumvent the necessity of following required legal procedures.

4.5 With respect to the disclosure of personal information, the provisions of the Privacy Act shall be respected.

5. SUBMISSIONS TO THE MINISTER

For his information, the Solicitor General shall be sent copies of those agreements governed by section 3.1 that have been entered into by the Force with Federal, Provincial, Municipal and foreign governments and police and law enforcement or other investigative agencies. Those agreements requiring the approval and/or signature of the Solicitor General are those with the conditions set out below.

précisée, tant que leur portée et leur importance sont compatibles avec la politique étrangère du Canada.

4.4 Les ententes élaborées doivent être légales et conformes aux politiques gouvernementales et ministérielles. On ne peut emprunter des voies de communication ou prendre des arrangements informels pour contourner la procédure légale obligatoire.

4.5 Il convient, en ce qui concerne la communication de renseignements personnels, de respecter les dispositions de la Loi sur la protection des renseignements personnels.

5. PRÉSENTATION AU MINISTRE

Le Solliciteur général doit recevoir, à titre informatif, copie de toutes les ententes visées à l'article 3.1 conclues par la Gendarmerie avec des autorités fédérales, provinciales et municipales, des gouvernements étrangers, des corps policiers et services d'application de la loi et d'autres organismes d'enquête. Seules les ententes qui respectent les conditions générales suivantes doivent être approuvées et signées par le Solliciteur général.

5.1 For Approval

All proposed or amended RCMP law enforcement agreements meeting the following general conditions must be submitted for the approval of the Solicitor General prior to execution

- a. where there are significant resource implications for the Force; or
- b. when, in the performance of RCMP duties, there is a requirement that an agreement be entered into in order to clarify or interpret organizational responsibilities or obligations of the Force.

5.2 For Signature

All proposed or amended RCMP law enforcement agreements meeting the following conditions must be submitted to the Solicitor General for approval and signature in advance of execution by the other party or parties to the agreement.

- a) when the agreement is with a foreign entity; or
- b) when the signatory to the agreement is an elected official.

5.1 Approbation

Toutes les ententes proposées ou modifiées de la GRC en matière d'application de la loi qui respectent les conditions générales suivantes doivent être soumises à l'approbation du Solliciteur général avant d'être mises à exécution.

- a. lorsqu'elles ont des répercussions importantes sur les ressources de la Gendarmerie; ou
- b. lorsque, dans l'accomplissement de ses fonctions, la Gendarmerie doit conclure une entente pour clarifier ou interpréter ses responsabilités ou obligations en tant qu'organisation.

5.2 Signature

Tout projet d'ententes en matière d'application de la loi ou toute modification à une telle entente qui respecte les conditions générales suivantes doit être approuvé et signé par le Solliciteur général avant d'être exécuté par l'autre ou les autres parties à l'entente.

- a) lorsque l'entente est conclue avec un organe étranger; ou
- b) lorsque le signataire de l'entente est élu.

If the agreement is with a municipal or provincial elected official and deals with a routine, administrative or operational matter, then the provisions of this section are not intended to apply.

Le présent article ne s'applique pas aux ententes conclues avec un représentant élu d'une administration municipale ou d'un gouvernement provincial qui porte sur les questions courantes d'ordre administratif ou opérationnel.

5.3 Termination

If, in the judgement of the Commissioner, the terms of an agreement approved by the Minister have been violated or it has become impractical to continue providing or receiving the assistance, services and/or information provided for by agreement, he may recommend to the Solicitor General that the agreement be terminated.

5.3 Abrogation

Si, de l'avis du Commissaire, les modalités d'une entente approuvée par le Ministre ont été violées ou s'il est devenu difficile de continuer de fournir ou de recevoir l'aide, les services ou les renseignements prévus, il peut recommander au Solliciteur général de mettre fin à l'entente.

6. STANDARD PROVISIONS

6.1 Agreements entered into by the RCMP should be in writing, be made pursuant to this Directive, and include the following;

- a) the purpose and objective;
- b) a full description of all organizational obligations;
- c) an indication of the regular liaison channels and points of contact within each organization for the discharge of the respective obligations;

6. DISPOSITIONS NORMALES

6.1 Les ententes conclues par la GRC doivent être établies par écrit et conformément à la présente directive et doivent comprendre les éléments suivants:

- a) l'objet et l'objectif;
- b) une description complète de toutes les obligations de l'organisation;
- c) une indication des voies de liaison et des points de contact habituels au sein de chaque organisation en vue de l'exécution des obligations respectives;

d) provision for its modification or cancellation by either party;

e) a precise legal description including the statutory authority governing the agreement; and

f) provision for audit and periodic evaluation of the agreement.

d) une disposition prévoyant sa modification ou son annulation par l'une ou l'autre des parties;

e) une description légale précise, y compris l'autorisation statutaire régissant l'entente;

f) une clause prévoyant une vérification et une évaluation périodiques de l'entente.

6.2 Agreements may take a number of written forms depending upon the purpose, objective, and factual circumstances; including a formal agreement or an exchange of letters. The form adopted will be determined through discussion between the RCMP and the other party or parties to the agreement.

6.2 Les ententes peuvent prendre diverses formes écrites selon l'objet, l'objectif et les circonstances, par exemple, une entente officielle ou un échange de lettres. La forme adoptée sera déterminée par le biais de discussions entre la GRC et les autres parties à l'entente.

6.3 Agreements entered into under this Directive should identify the RCMP resources required.

6.3 Les ententes conclues en vertu de la présente directive doivent préciser les ressources de la GRC qui seront engagées.

7. ADMINISTRATION OF AGREEMENTS

7. EXÉCUTION DES ENTENTES

7.1 A central registry of all agreements shall be maintained at RCMP Headquarters. Additionally, a record shall be maintained of action taken relating to any changes to the terms or conditions of an agreement, copies of audit

7.1 La Direction générale de la GRC doit tenir un dépôt central de toutes les ententes. En outre, on tiendra un relevé de toutes les mesures prises ayant trait aux modifications apportées aux modalités d'une entente, les copies des

reports, and observations received relating to the services provided or received under an agreement.

rapports de vérification et les observations portant sur les services dispensés ou reçus en vertu de l'entente.

7.2 Audit and Evaluation

7.2 Vérification et évaluation

The operation of each agreement shall be subject to periodic review and audit by the RCMP to ensure that the following minimum conditions prevail:

L'exécution de chaque entente fera l'objet d'un examen et d'une vérification périodiques de la part de la GRC, qui s'assurera du respect des conditions minimales suivantes:

- a) the agreement is being performed in accordance with its established provisions;
- b) the agreement continues to be "necessary" for the purposes originally justifying its establishment;
- c) the appropriate level of confidentiality continues to be maintained protecting the privacy of individuals and the confidentiality of investigations; and
- d) the agreement continues to operate in a fashion which is lawful and fully satisfactory to the parties involved.

- a) l'entente est exécutée conformément à ses dispositions;
- b) l'entente continue d'être "nécessaire" pour les fins qui justifiaient initialement sa conclusion;
- c) le maintien du niveau pertinent de confidentialité autour de la vie privée des personnes et des enquêtes;
- d) l'entente continue d'être exécutée de façon licite, à la pleine satisfaction des parties en cause.

8. EFFECTIVE DATE

8. DATE D'ENTRÉE EN VIGUEUR

This directive is to be effective on the date of issue.

La présente directive entre en vigueur à la date de son émission.

9. ENQUIRIES

Amendments to and interpretations of this Directive are provided under the authority of the Solicitor General of Canada. All enquiries and requests for amendments to or interpretation of this Directive should be referred in writing, through RCMP Headquarters, to the Solicitor General of Canada, attention: the Senior Assistant Deputy Solicitor General, Police and Security Branch.

9. DEMANDES DE RENSEIGNEMENTS

Les modifications apportées à la présente directive et l'interprétation qui en est donnée le sont en vertu de l'autorité du Solliciteur général du Canada. Toutes les demandes de renseignements ou de modifications doivent être adressées par écrit, par le biais de la Direction générale de la GRC, au Solliciteur général du Canada, aux soins du Premier sous-solliciteur général adjoint, Direction de la police et de la sécurité.

MINISTERIAL DIRECTIVE ON LEGISLATORS' PRIVILEGES AND IMMUNITIES IN RELATION TO PART IV.1 OF THE CRIMINAL CODE, WITHIN THE PRECINCTS OF PARLIAMENT, PROVINCIAL AND TERRITORIAL ASSEMBLIES

SHORT TITLE: Ministerial Directive on Legislators' Privileges and Immunities, Part IV.1 of the Criminal Code

I PURPOSE AND SCOPE

This Directive is intended to provide guidance to the RCMP in those circumstances where the RCMP is required to initiate an application for a judicial authorization for an electronic interception of a private communication while carrying out investigations relating to Members of Parliament, Senators or members of provincial or territorial legislatures. These guidelines are intended to ensure that the privileges and immunities of legislators are not abridged and that the RCMP thereby avoids charges by legislators of breach of privilege or contempt of Parliament.

II AUTHORITIES

This Directive is issued by the Solicitor General of Canada pursuant to authority provided under the Department of the Solicitor General Act, R.S.C. 1970, c.S-12,s.4 and the Royal Canadian Mounted Police Act, R.S.C. 1970, c. R-9,s.5.

DIRECTIVE MINISTÉRIELLE SUR LES PRIVILEGES ET IMMUNITÉS DES LEGISLATEURS A L'EGARD DE L'APPLICATION DE LA PARTIE IV.1 DU CODE CRIMINEL, DANS L'ENCEINTE DU PARLEMENT ET DES ASSEMBLÉES LEGISLATIVES PROVINCIALES ET TERRITORIALES

TITRE ABRÉGÉ: Directive ministérielle sur les privilèges et immunités des législateurs, Partie IV.1 du Code criminel

I OBJET ET PORTÉE

Cette directive vise à guider la GRC lorsqu'elle est tenue d'intenter une demande pour une autorisation judiciaire concernant l'interception électronique d'une communication privée dans le cadre d'enquêtes touchant des députés, des sénateurs, ou des députés d'assemblées législatives provinciales ou territoriales. Ces lignes directrices visent à faire en sorte que les immunités et privilèges des législateurs ne soient pas enfreints, et que la GRC évite les accusations de violation de privilège ou de mépris du Parlement.

II POUVOIRS

Cette directive est publiée par le Solliciteur général du Canada en vertu des pouvoirs qui lui sont conférés par la Loi sur le ministère du Solliciteur général, SRC 1970, c. S-12, art. 4, et par le Loi sur la Gendarmerie royale du Canada, SRC 1970, c. R-9, art.5.

.../2

III DEFINITIONS

1. "Legislators":

The term "legislator" means Senators and Members of Parliament, or members of provincial legislatures or territorial assemblies.

2. "Precinct of Parliament":

The term "precinct of Parliament" means the geographic limits over which a Speaker exercises jurisdiction and control. The term is used in this Directive to include the area controlled by the Speakers of the House of Commons, the Senate, the territorial assemblies and the provincial legislatures.

As a general guideline it may be assumed that the precinct of the Parliament of Canada includes the House of Commons, the Confederation Building, the West and East Blocks but not the grounds of Parliament Hill (Minutes of Proceedings and Evidence, House Standing Committee on Privileges and Elections, First Session, 29th Parliament, (1973-1974, Issue 5, pp. 5-8)). With provincial and territorial assemblies, their precincts may be construed to include the legislative chambers, committee rooms, members' offices and all rooms used by members. At times, this has been held to include the cafeteria (Payson vs. Hubert 34 S.C.R. 400). The

III DÉFINITIONS

1. "Législateurs":

Le mot "législateur" désigne les sénateurs et députés, ou les députés des assemblées législatives provinciales ou territoriales.

2. "Enceinte du Parlement":

L'expression "enceinte du Parlement" désigne l'aire géographique qui relève de la compétence et du contrôle du Président. Dans la présente directive, cette expression comprend le secteur sous le contrôle des Présidents de la Chambre des communes et du Sénat, et des assemblées législatives provinciales et territoriales.

On peut supposer que l'enceinte du Parlement du Canada englobe en gros la Chambre des communes, l'Immeuble de la Confédération, les immeubles de l'Ouest et de l'Est, mais non les terrains de la Colline parlementaire (Procès-verbaux et Témoignages, Comité permanent de la Chambre des communes chargé des privilèges et des élections, Première session, 29^e Législature, (1973-1974, 5^e fascicule, pp. 5 à 8)). Dans le cas des assemblées législatives provinciales et territoriales, leur enceinte peut inclure les locaux des assemblées, les salles des

.../3

law is not entirely clear whether or not a member's constituency office or his home should be considered to be within the precinct of Parliament.

In case of any uncertainty as to whether or not the precincts of Parliament or a provincial legislature may be involved, the advice of the Federal or, where appropriate, a provincial Department of Justice should be sought before any action is taken.

3. "Privileges and Immunities"

Privileges and immunities of legislators relative to legal processes are based on the paramount claim of Parliament to the attendance and participation of its members in its proceedings.

IV PROCEDURES GOVERNING THE APPLICATION FOR THE INTERCEPTION OF A PRIVATE COMMUNICATION

1. FULL DISCLOSURE:

i) To Designated Agents

When a member of the Force applies to a designated agent to request an application for

comités, les bureaux et toutes les pièces utilisées par les députés. Parfois, on a jugé que cette expression comprenait la cafétéria (Payson c. Hubert 34 RCS 400). La loi ne précise pas clairement si le bureau de circonscription ou le domicile d'un député doit être considéré comme faisant partie de l'enceinte du Parlement.

Si l'on ne sait pas si l'enceinte du Parlement ou d'une assemblée législative est en cause, avant toute chose, il faut demander l'avis du ministère fédéral ou, selon le cas, provincial de la Justice.

3. "Privilèges et immunités"

Les privilèges et immunités des législateurs à l'égard du processus judiciaire sont fondés sur le principe que le Parlement est suprême et que ses membres doivent pouvoir assister et participer à ses délibérations.

IV PROCÉDURES RÉGISSANT L'APPLICATION DE LA DIRECTIVE À L'INTERCEPTION D'UNE COMMUNICATION PRIVÉE

1. DIVULGATION COMPLÈTE:

i) Aux agents désignés

Lorsqu'un membre de la GRC demande à un agent désigné une autorisation en vertu de

.../4

an authorization under Part IV.1 of the Criminal Code, the member should fully inform the designated agent of the circumstances which may involve legislators' privileges and immunities.

This directive complements the handbook entitled "Guidelines for Designated Agents of the Solicitor General". RCMP members are encouraged to remind designated agents that the Solicitor General has amended the "Guidelines for Designated Agents of the Solicitor General" to ensure that in cases involving a legislator, the designated agent consults with senior officials in the Federal Department of Justice; namely the General Counsel Criminal Prosecutions Section or the Assistant Deputy Attorney-General Criminal Law, and obtains concurrence before an application is made under Part IV.1 of the Criminal Code.

ii) To Judges.

The Criminal Code does not provide for any limitation restricting judicial authorizations for the electronic interception of a private communication in respect of a Member of Parliament or of a provincial or territorial legislature. As a result, legislators do not appear to enjoy any special privilege or immunity from the provisions of Part IV.1 of the Criminal Code.

la Partie IV.1 du Code criminel, le membre doit informer l'agent à fond sur les circonstances qui peuvent mettre en cause les privilèges et immunités des législateurs.

Cette directive complète le guide intitulé "Directives destinées aux mandataires désignés par le Solliciteur général du Canada". On encourage les membres de la GRC à rappeler aux agents désignés que le Solliciteur général a modifié les "Directives destinées aux mandataires désignés par le Solliciteur général du Canada" afin que, dans les cas mettant en cause un législateur, l'agent désigné consulte des hauts fonctionnaires du ministère de la Justice - soit l'avocat général de la Section des poursuites pénales ou le sous-procureur général adjoint au Droit pénal - et obtenir leur accord avant de faire une demande en vertu de la Partie IV.1 du Code criminel.

ii) Aux juges.

Le Code criminel ne prévoit aucune restriction aux autorisations judiciaires concernant l'interception électronique d'une communication privée d'un député du Parlement ou d'une assemblée législative provinciale ou territoriale. Il s'ensuit que la Partie IV.1 du Code criminel ne semble pas accorder aux législateurs d'immunité ou de droit spécial.

- 5 -

Nevertheless, where the object of a judicial authorization for an electronic interception of a private communication, under Part IV.1 of the Criminal Code is a legislator, the authorizing Judge will, no doubt, want to balance the various public and private interests involved in the course of exercising his or her discretion. In order that a fully informed decision is rendered, the officials and Judges involved must be made aware of all of the circumstances surrounding the application. Since many Members of Parliament are lawyers, this will include whether or not there is a possibility of a solicitor-client relationship, which is privileged. It will also include the possible involvement of legislators' privileges and immunities during execution of the authorization. This will enable the Judge to determine whether or not there are terms and conditions which he considers advisable for inclusion in the authorization to protect any privilege and avoid or minimize the possibility of breach.

iii) Authorizations in an
Emergency.

In an emergency, when an application is made by a peace officer, directly to a specially appointed Judge pursuant to s.178.15 of the Criminal Code, it is imperative that the Judge be made aware of all of the circumstances

Néanmoins, si une autorisation judiciaire porte sur l'interception électronique d'une communication privée d'un législateur en vertu de la partie IV.1 du Code criminel, lorsqu'il exerce son pouvoir discrétionnaire, le juge qui donne l'autorisation voudra sans doute équilibrer les divers intérêts publics et privés en cause. Afin que soit rendue une décision judiciaire, les fonctionnaires et les juges intéressés doivent connaître toutes les circonstances de la demande. Comme de nombreux députés sont avocats, ce risque peut porter sur les relations privilégiées entre un avocat et son client. L'exécution de l'autorisation peut aussi mettre en cause les privilèges et immunités de législateurs. Le juge pourra ainsi déterminer les modalités qu'il souhaite inclure à l'autorisation pour éviter ou minimiser le risque de violation de tout privilège.

iii) Autorisations en cas
d'urgence

Lorsqu'un agent de la paix présente une demande urgente directement à un juge nommé spécialement en vertu de l'art. 178.15 du Code criminel, le juge doit absolument connaître toutes les circonstances de la

.../6

- 6 -

surrounding the application, including the possible involvement of a legislator's privileges and immunities during execution of the authorization. For this reason the Judge should be informed of any possibility that legislators' privileges and immunities may be of concern. This will enable the Judge to determine whether or not there are terms and conditions which he or she considers advisable for inclusion in the authorization to protect any privilege and avoid or minimize the possibility of breach.

2. EXECUTION:

- i) Informing the Solicitor General of Canada or his senior representative.

The Commissioner should, at his discretion, inform the Solicitor General of Canada or his senior representative at the earliest opportunity before authorizations involving legislators are executed. This will enable the Solicitor General, who is publicly accountable for the standards of internal management and police procedures in the RCMP, to respond to queries by the public or in Parliament or take such action as he deems necessary. This requirement should by no means be construed as impinging on the Force's independence to act in such matters.

demande, y compris la mise en cause éventuelle des privilèges et immunités d'un législateur pendant l'exécution de l'autorisation. Le juge doit donc être au courant de tout risque de ce genre. Ce juge pourra ainsi déterminer les modalités souhaitable pour inclure à l'autorisation afin d'éviter ou de minimiser le risque de violation de tout privilège.

2. EXÉCUTION:

- Informier le Solliciteur général du Canada ou son représentant principal.

À sa discretion, le Commissaire devrait informé le Solliciteur général du Canada au plus tôt possible avant l'exécution d'une autorisation touchant un législateur. Ainsi, comme le Solliciteur général est responsable devant le public des normes de gestion internes et des procédures policières de la GRC, il sera en position de répondre aux questions du public, au Parlemant ou de prendre autres actions jugées nécessaires. Cette exigence ne doit nullement être interprétée comme une limite à la liberté de la GRC d'agir dans de tels cas.

.../7

- 7 -

ii) Informing Federal and Provincial Attorneys General or their senior representative.

ii) Informer les procureurs généraux fédéral ou provinciaux ou leurs représentants principaux.

In every case in which a designated agent of the Solicitor General of Canada secures an authorization on behalf of the RCMP to intercept private communications involving a legislator, the General Counsel, Criminal Prosecutions Section or the Assistant Deputy Attorney General, Criminal Law, Department of Justice must be informed by the RCMP at the earliest opportunity before the authorization is executed. This is required even though the designated agent himself should have informed these officials prior to making application for the authorization.

Chaque fois qu'un agent désigné du Solliciteur général du Canada obtient l'autorisation aux soins de la GRC d'intercepter des communications privées d'un législateur, l'avocat général de la Section des poursuites pénales ou le sous-procureur général adjoint au Droit pénal, Ministère de la Justice, doit être informé par la GRC le plus tôt possible avant l'exécution de l'autorisation. Cette mesure est obligatoire même si l'agent désigné lui-même aurait dû informer ces fonctionnaires avant de demander l'autorisation.

Where the authorization is secured by a designated agent of a provincial Attorney General, the Force must inform that provincial Attorney General or his senior representative at the earliest opportunity before the authorization is executed.

Lorsque l'autorisation est obtenue par un agent désigné d'un Procureur général provincial, ce dernier ou son représentant principal doit être informé par la GRC le plus tôt possible avant l'exécution de l'autorisation.

This will enable these federal and provincial Ministers to exercise their responsibility to ensure that police investigations within the precinct of Parliament are conducted in a manner that fully respects the privileges and immunities of legislators.

Ces ministres fédéral et provincial pourront ainsi exercer leur responsabilité de faire en sorte que les enquêtes policières se déroulant dans l'enceinte du Parlement respectent entièrement les privilèges et immunités des législateurs.

In addition, it is generally in the public interest that a provincial or territorial government be made aware of the circumstances of all investigations in that

En outre, il est généralement de l'intérêt public qu'un gouvernement provincial ou territorial connaisse les circonstances de toutes les enquêtes touchant son assemblée législative. En conséquence, 000191

legislature. Therefore, where an authorization obtained by an agent designated by the Solicitor General of Canada involves intercepting the private communications of a provincial or territorial legislator, the Commissioner may, at his discretion inform the provincial Attorney General, or Territorial Executive Member responsible for Justice, or his senior representative prior to the execution of the authorization. This requirement should by no means be construed as impinging on the Force's independence to act in such matters.

iii) Consultation with the Speaker.

Where any physical entry within the precinct of Parliament is required, the Speaker's consent is required except as provided below. Without such consent, the intrusion may be found to be a breach of a legislator's privilege.

It is recommended that the RCMP engage an official of the Federal or a Provincial Department of Justice either to act as spokesperson in approaching the Speaker, or at least to be present to answer any legal questions that the Speaker might be expected to raise.

In cases where the Speaker neither gives nor withholds consent to enter a legislature for the purpose of executing a judicially authorized interception, the Commissioner of the RCMP may determine, after consultation with federal or provincial legal counsel, whether or not to proceed with

lorsqu'un agent désigné du Solliciteur général du Canada obtient l'autorisation d'intercepter des communications privées d'un législateur provincial ou territorial, le Commissaire peut, à sa discrétion, informer le Procureur général provincial, ou Membre exécutif responsable pour la justice des Territoires, ou son représentant principal avant l'exécution de l'autorisation. Cette exigence ne doit nullement être interprétée comme une limite à la liberté de la GRC d'agir dans de tels cas.

iii) Consultations avec le Président

Lorsqu'il faut pénétrer dans l'enceinte du Parlement, il faut obtenir l'accord du Président, sauf dans les cas qui suivent. Sinon, l'intrusion peut être considérée comme une violation du privilège d'un législateur.

Il est recommandé que la GRC demande à un fonctionnaire du ministère fédéral ou provincial de la Justice d'être son porte-parole auprès du Président, ou du moins d'être présent pour répondre à toute question de nature juridique que le Président pourrait poser.

Lorsque le Président ne donne ou ne retien pas de donner son consentement à l'entrée dans une enceinte afin d'exécuter une interception faisant l'objet d'une autorisation judiciaire, le Commissaire peut décider, après consultation avec les avocats fédéraux ou provinciaux, de procéder ou non

The jurisdiction of Parliament, or a legislature, to deal with an alleged breach of privilege may not end at the precise limit of the precinct of Parliament. In view of the uncertainties involved in determining the extent to which parliamentary jurisdiction may be asserted in relation to the implementation of a remote interception (i.e. implemented without any intrusion within the precinct of Parliament), RCMP members are encouraged to seek the advice of officials from the Federal Department of Justice before any action is taken.

La compétence du Parlement ou d'une assemblée législative en matière de violations supposées des privilèges peut ne pas prendre fin à la limite précise de l'enceinte du Parlement. Compte tenu des incertitudes qu'entraîne l'établissement de la compétence du Parlement à l'égard d'une interception ayant lieu à l'extérieur (soit exécutée sans qu'il y ait intrusion dans l'enceinte du Parlement), on encourage les agents de la GRC à demander conseil auprès des fonctionnaires du ministère fédéral de la Justice avant d'entreprendre toute action.

V ENQUIRIES:

All enquiries regarding this policy should be routed through RCMP Headquarters. For interpretation of the content of this policy, Departmental Headquarters should contact the Senior Assistant Deputy Solicitor General of the Police and Security Branch of the Ministry Secretariat.

V. DEMANDES DE RENSEIGNEMENTS:

Toutes les demandes de renseignements concernant la présente politique doivent être acheminées par l'intermédiaire de la Direction générale de la GRC. En ce qui concerne l'interprétation de la teneur de la présente politique, les administrations centrales doivent communiquer avec le sous-solliciteur général adjoint principal de la Direction de la police et de la sécurité du Secrétariat du Ministère.

Original signed by
James Kelleher

APPROVED BY:
APPROUVÉ PAR:

Solicitor General of Canada
Solliciteur général du Canada

MAR 30 1987

Dated this _____ day of _____
In date du _____ jour de _____ 1986

at Ottawa, Ontario
à Ottawa (Ontario)

Page 194
is a duplicate
est un duplicata

Page 195
is a duplicate
est un duplicata

Page 196
is a duplicate
est un duplicata

Page 197
is a duplicate
est un duplicata

Page 198
is a duplicate
est un duplicata

Page 199
is a duplicate
est un duplicata

Page 200
is a duplicate
est un duplicata

**Page 201
is a duplicate
est un duplicata**

Page 202
is a duplicate
est un duplicata

Page 203
is a duplicate
est un duplicata

Page 204
is a duplicate
est un duplicata

Page 205
is a duplicate
est un duplicata

Page 206
is a duplicate
est un duplicata

Page 207
is a duplicate
est un duplicata

Page 208
is a duplicate
est un duplicata

Page 209
is a duplicate
est un duplicata

Page 210
is a duplicate
est un duplicata

Page 211
is a duplicate
est un duplicata

Page 212
is a duplicate
est un duplicata

CONFIDENTIAL

OTTAWA, K1A 0P8
17 1981

Commissioner R.H. Simmonds
Royal Canadian Mounted Police
Room G-309 - Headquarters
1200 Alta Vista Drive
Ottawa, Ontario
K1A 0R2

Dear Commissioner Simmonds:

I wish to advise you formally that the Canadian policy with respect to foreign security guards, to be put into effect for the forthcoming visit of President and Mrs. Reagan and in relation to the Economic Summit 1981, is as follows:

"Under the Canadian Criminal Code, any individual who carries a restricted weapon, e.g. a hand-gun, commits a criminal offense, unless the weapon is registered in Canada and the person carrying the weapon has a valid permit to carry. Because of implicit residency requirements in Canadian law, members of foreign official delegations legally cannot be granted a valid permit to carry in Canada.

It is expected that members of foreign official delegations will comply with Canadian law. While members of such delegations are extended normal diplomatic courtesies, the Canadian law relating to the carriage of a restricted weapon will be enforced in cases of apparent breaches or where there are reasonable grounds to believe the law has been contravened.

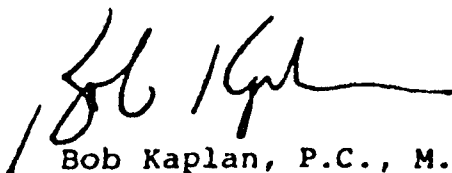
.../2

81-6217

The protection of members of foreign official delegations will be the responsibility of Canadian authorities. It should be appreciated, however, that the security planning for foreign visits such as those of President and Mrs. Reagan and the visits associated with the Economic Summit 1981, will involve full consultation between Canadian authorities and foreign security officers."

I trust that this statement of policy will facilitate the discharge of RCMP responsibility for maintaining the security of these very important functions.

Yours truly,



Bob Kaplan, P.C., M.P.

OPS. RECORDS
DOSSIERS OPER.
REV. 20

APR 23 1981
000214

The Honourable
Bob Kaplan

L'honorable
Bob Kaplan

APR 30 1982
ZVR

CONFIDENTIAL

Commissioner R.H. Simmonds
Royal Canadian Mounted Police
1200 Alta Vista Drive
Ottawa, Ontario
K1A 0R2

Dear Commissioner Simmonds:

I am in receipt of your letter of February 25, 1982 concerning the RCMP investigations of [REDACTED] and I would like to outline for you a possible concern I have with this case.

s.19(1)

I fully accept that the initiation and conduct of a specific criminal investigation by the Force is exclusively a matter of police discretion. I feel however, on the basis of the information provided to me, that it would be possible to conclude that the RCMP's persistence in its investigation could border on harassment of the [REDACTED] on the basis of the correspondence, would appear to have undergone a lengthy and continuous surveillance over the past ten years. Moreover, it would appear that although the investigation has not resulted in any charges being laid, it may have contributed to a loss of reputation, goodwill and business.

In such circumstances, I would appreciate receiving from you an indication of the procedures used by the Force to ensure that lengthy cases, which have not produced arrests or convictions, are reviewed to judge whether there are reasonable grounds for a continuous criminal investigation and which support considerable expenditures in time and money.

Thank you for providing me with information on this case and I look forward to hearing from you on this subject at your earliest convenience.

Yours truly,

Original Signed by
Original signed by
BOB KAPLAN
Bob Kaplan, P.C., M.P.

CBELFORD/rh/PSB
file: 2062-F
April 7/82

Page 216
is not relevant
est non pertinente

INTRODUCTION

MINISTERIAL DIRECTIVES

Policing in a free and democratic society has become increasingly more complex. A balance must be struck between effective law enforcement and the safeguarding of the constitutional rights of all Canadians.

Responsibility for effective policing in Canada is shared. Insofar as the Royal Canadian Mounted Police is concerned, the Government and the Commissioner of the Force must ensure that the enforcement of laws is in conformity with Canadian standards of criminal justice and is consistent with the tenets of the Canadian Charter of Rights and Freedoms.

Parliament assigns responsibility for the Royal Canadian Mounted Police to the Solicitor General of Canada. Pursuant to authorities provided in the Department of the Solicitor General Act and the Royal Canadian Mounted Police Act, the Solicitor General may issue Directives to the Commissioner of the Force which set general policy to guide the Force in its administration and operations.

The Directives provided to the Force, where they touch on police operations, reflect the balance found in the laws of our democratic state. Both in law and in the administration of the police, it lies with the political executive, in the first instance, to weigh and balance the necessary protection

DIRECTIVES MINISTÉRIELLES

Le maintien de l'ordre dans une société libre et démocratique devient de plus en plus complexe. Il faut parvenir à un équilibre entre l'application efficace de la loi et la protection des droits constitutionnels de tous les Canadiens.

La prestation de services policiers efficaces au Canada fait l'objet d'une responsabilité partagée. Pour ce qui est de la Gendarmerie royale du Canada, le gouvernement et le Commissaire de la Gendarmerie doivent s'assurer que les lois sont appliquées conformément aux normes canadiennes en matière de justice pénale et aux principes de la Charte canadienne des droits et libertés.

Le Parlement confie au Solliciteur général du Canada la responsabilité de la Gendarmerie royale du Canada. Conformément aux pouvoirs que lui confèrent la Loi sur le ministère du Solliciteur général du Canada et la Loi sur la Gendarmerie royale du Canada, le Solliciteur général émet, à l'intention du Commissaire de la Gendarmerie, des directives qui énoncent les normes générales devant guider celle-ci dans son administration et ses opérations.

Les directives données à la Gendarmerie, là où elles touchent aux opérations de police, reflètent l'équilibre que l'on trouve dans les lois de notre État démocratique. Qu'il s'agisse de la loi ou de l'administration de la police, il incombe au pouvoir exécutif, au premier chef, de

.../2

- 2 -

for the constitutional rights of Canadians with the need to provide the police with effective means to protect the lives and property of all citizens.

My purpose in issuing Directives on selected policing matters is twofold: first, these Directives establish the policy framework for areas of policing by the Force which require clarification by the Solicitor General; and second, these Directives serve to guide the Force as to those contemporary standards which achieve a balance between individual rights and effective policing practices. Ministerial Directives also serve to inform the public of the character of the supervision provided by the political executive to the RCMP. This latter purpose is particularly important where Force policies cannot be made public without compromising police effectiveness in combatting crime.

These Directives serve to assure Canadians that the RCMP is being provided with standards of performance that merit their confidence and respect.

trouver le juste équilibre entre la protection indispensable des droits constitutionnels des Canadiens et la nécessité d'offrir à la police des moyens efficaces de protéger la vie et les biens de tous les citoyens.

La publication de directives sur certaines questions de police est dictée par un double dessein: premièrement, ces directives établissent un cadre de principes dans les secteurs des services policiers de la Gendarmerie qui demandent des éclaircissements de la part du Solliciteur général; et deuxièmement, elles contribuent à guider la Gendarmerie quant aux normes contemporaines qui créent un équilibre entre les droits individuels et des pratiques policières efficaces. Des directives ministérielles servent aussi à faire connaître au public le caractère de la surveillance qu'exerce le pouvoir exécutif à l'égard de la GRC, ce qui est particulièrement important là où il est impossible de rendre publiques les politiques de la Gendarmerie sans compromettre l'efficacité de la police dans la lutte contre le crime.

Ces directives apportent aux Canadiens l'assurance que l'on établit à l'égard de la GRC des normes de rendement qui méritent leur confiance et leur respect.

Original Signed by
HOLLAND
MAR 20 1985

SOLICITOR GENERAL OF CANADA
SOLLICITEUR GENERAL DU CANADA

Page 219
is a duplicate
est un duplicata

Page 220
is a duplicate
est un duplicata

Page 221
is a duplicate
est un duplicata

Page 222
is a duplicate
est un duplicata

Page 223
is a duplicate
est un duplicata

Page 224
is a duplicate
est un duplicata

Page 225
is a duplicate
est un duplicata

Page 226
is a duplicate
est un duplicata

Page 227
is a duplicate
est un duplicata

Solicitor General
of Canada



Solliciteur général
du Canada

February 8, 1995

Commissioner J.P.R. Murray
Royal Canadian Mounted Police
1200 Vanier Parkway
Ottawa, Ontario
K1A 0R2

Dear Commissioner Murray:

I am writing with respect to an important issue that has arisen in the course of recent discussions on Bill C - 58, An Act to Amend the Public Service Staff Relations Act and Royal Canadian Police Act.

As you know, concerns have been expressed that once Bill C - 58 is passed, RCMP members will no longer be entitled to the bilingualism bonus. This would clearly run contrary to government policy in this area.

On a number of occasions, you and I have both stated our commitment in this regard. Therefore, I would direct that you ensure that all qualified members of the RCMP occupying designated bilingual positions receive the bilingualism bonus for as long as it remains a government policy.

Thank you for your attention to this matter.

Yours sincerely,

Hon. Herb Gray, P.C., M.P.

Solicitor General
of Canada



Solliciteur général
du Canada

APR 8 1997

Ottawa, Canada K1A 0P8

CC: DSG/DK/YAID
DP

Commissioner J.P.R. Murray
Royal Canadian Mounted Police
1200 Vanier Parkway
Ottawa, Ontario
K1A 0R2

Dear Commissioner Murray:

Further to our recent discussion concerning requests for municipal contract services in communities never policed previously by the Force (i.e., "new entrants"), I would like to clarify the process to be used in dealing with such requests.

For the purpose of future inquiries, and recognizing the sensitivities that may exist between different levels of government on this issue, I would like to ensure that requests involving municipal authorities to local RCMP members be brought to my attention at the earliest opportunity through you and through the provincial minister responsible for law enforcement in the jurisdiction concerned. This should be done to avoid having RCMP officials at the divisional level drawn into speculative discussions with municipal authorities, and so that formal contact can be established at the appropriate levels within the provincial and federal governments, consistent with the provisions of the federal New Entrants guidelines. Requests received in this manner can then be reviewed by the appropriate officials within the Department and RCMP Headquarters.

For the reasons you and I discussed, it is important that RCMP officials not promote, or give the appearance of promoting, the RCMP at the expense of other local police departments.

In closing, let me say that, as with other contract policing matters, it is important for the Force to provide me with thorough and timely advice on all municipal or provincial inquiries regarding RCMP services. Given the importance of these contractual arrangements, both to Canada, generally, and the RCMP, specifically, I know I can count on your cooperation in this regard.

Yours sincerely,

THE HON. HERB GRAY, M.P.

MINISTERIAL DIRECTIVE ON RCMP AGREEMENTS

I. INTRODUCTION

- A. This directive is issued by the Solicitor General of Canada to the Commissioner of the Royal Canadian Mounted Police (RCMP) pursuant to authority provided under the *Royal Canadian Mounted Police Act*, R.S., 1985, c. R-10, s.5.
- B. This directive deals with agreements entered into by the RCMP to provide services, information, assets, or assistance to, or receive same from, other departments, agencies and institutions of municipal, territorial, provincial, federal or foreign governments, or with international organizations.
- C. The purpose of this directive is to provide ministerial guidance to the RCMP regarding accountability and consultation requirements for RCMP agreements.
- D. For the purpose of this directive, the term "agreement" shall be understood to include the terms "arrangement", "understanding", or any other similar term, and to exclude commercial or other contracts and licensing arrangements.
- E. These agreements may take any written form, including an exchange of letters.
- F. The effective date of this directive is the date that it is signed by the Solicitor General of Canada.
- G. This directive cancels any other ministerial directive on RCMP law enforcement agreements that may

DIRECTIVE MINISTÉRIELLE SUR LES ACCORDS CONCLUS PAR LA GRC

I. INTRODUCTION

- A. Le solliciteur général du Canada prend la présente directive en vertu du pouvoir que lui confère la *Loi sur la Gendarmerie royale du Canada*, L.R., (1985), ch. R-10, art. 5, et l'adresse au commissaire de la Gendarmerie royale du Canada (GRC).
- B. La présente directive s'applique aux accords d'échange de renseignements, de services, de biens, ou d'assistance entre la GRC et les ministères, les organismes, les établissements ou les administrations municipales, provinciales, fédérale ou étrangères, ou les organisations internationales.
- C. Elle a pour but d'indiquer à la GRC quels comptes elle doit rendre et quelles consultations elle doit effectuer avant de conclure tout accord.
- D. Pour les fins de la présente directive, le terme « accord » inclut les termes « arrangement », « entente », ou tout autre terme similaire, et exclut les contrats et les accords de licence de type commercial ou autre.
- E. Les accord visés par la présente directive peuvent prendre n'importe quelle forme écrite, y compris un échange de lettres.
- F. La présente directive entre en vigueur le jour de sa signature par le solliciteur général du Canada.
- G. L'entrée en vigueur de la présente directive annule toute autre directive ministérielle existante sur les accords

have existed on the effective date.

d'application de la loi conclus par la GRC.

II. PRINCIPLES AND STANDARDS

II. PRINCIPES ET NORMES

A. The following principles shall govern RCMP agreements:

A. Les accords conclus par la GRC doivent respecter les principes suivants :

1. All RCMP agreements shall be supported by legal advice.
2. Advice, from the Department of Foreign Affairs based on Canadian foreign policy considerations, must accompany any RCMP agreement with a foreign entity.
3. Where the Department of Foreign Affairs advises that it would not be in the best interest of Canada's foreign policy either to enter into a proposed agreement or to let an existing RCMP agreement continue in effect with a foreign entity, the RCMP Commissioner shall bring the matter to the attention of the Solicitor General for decision, and shall advise the Solicitor General with respect to that decision.
4. The RCMP is to keep an inventory of all RCMP agreements, amendments thereto, audit reports and any other correspondence relating to an agreement in a records system so that the above correspondence can easily be reviewed.
5. Except as provided for hereinafter, all RCMP agreements shall be signed by the Commissioner of the RCMP or his/her delegate.

1. La GRC obtient l'avis de conseillers juridiques avant de conclure tout accord.
2. Avant de conclure un accord avec une entité étrangère, la GRC doit consulter le ministère des Affaires étrangères à l'égard de toute incidence éventuelle sur la politique étrangère du Canada.
3. Si, après examen, le ministère des Affaires étrangères croit qu'un accord existant ou envisagé avec une entité étrangère n'est pas de l'intérêt du Canada et de sa politique étrangère, le commissaire de la GRC est tenu d'en aviser le solliciteur général afin que celui-ci prenne une décision.
4. Afin d'en simplifier l'examen, la GRC doit tenir un système d'enregistrement de ses accords, des modifications et des rapports de vérification d'accords et de toute la correspondance connexe.
5. Sous réserve des exceptions suivantes, tous les accords doivent être signés par le commissaire de la GRC ou par la personne qu'il désigne.

B. RCMP agreements must be in written form and contain the following:

1. A statement of the purpose and/or objectives of the agreement.
2. A full description of the obligations and committed resources of all signatories to the agreement.
3. The identification, within each organization, of individuals or positions responsible for the discharge of the obligations detailed in the agreement.
4. Provisions for modification of the agreement by mutual consent of all the signatories.
5. Provisions for the cancellation of the agreement by any of the signatories.
6. Any statutory authorities governing the agreement.
7. Provisions for reviews, audits and evaluations of any aspect of the agreement.

III. CONSULTATION AND SIGNATURE

A. The RCMP Commissioner shall consult with the Solicitor General of Canada with respect to all RCMP agreements and amendments thereto that fall under the following categories:

1. Where any of the signatories or proposed signatories is a Canadian or foreign elected official, or foreign official, holding an office or having a status equivalent to, or higher than, that of the Solicitor General of Canada.

B. Chaque accord conclu par la GRC doit être écrit et inclure les points suivants :

1. L'énoncé des buts et des objectifs de l'accord.
2. La description complète des obligations et des ressources promises par chacun des signataires.
3. Les noms ou les postes des membres de chaque organisme signataire chargés de remplir les obligations prévues par l'accord.
4. Une disposition permettant la modification de l'accord avec le consentement de tous les signataires.
5. Une clause permettant l'annulation par l'un ou l'autre des signataires.
6. Les textes législatifs qui régissent l'accord.
7. Des dispositions prévoyant l'examen, la vérification ou l'évaluation de chacune des parties de l'accord.

III. CONSULTATION ET RATIFICATION

A. Le commissaire de la GRC doit consulter le solliciteur général du Canada avant de conclure tout accord ou d'y apporter des modifications dans les cas suivants :

1. Si l'un des signataires, proposé ou choisi, est un élu du Canada ou d'un autre État, ou un fonctionnaire étranger et que son titre et ses fonctions égalent ou surpassent ceux du solliciteur général du Canada.

2. Where the RCMP Commissioner determines that consultation is required for any reason including the possibility that an agreement may receive attention in Parliament or from the media.
- B. The Solicitor General of Canada may decide to become a signatory to any agreement falling under these categories along with, or in the place of, the RCMP Commissioner or his/her delegate.
2. Si le commissaire de la GRC juge qu'une consultation est nécessaire, parce qu'il estime, par exemple, que le Parlement ou les médias sont susceptibles de s'y intéresser.
- B. Dans ces cas, le solliciteur général du Canada se réserve le droit de signer tout accord en sus ou au lieu du commissaire ou de son délégué.

Original Signed by the Honourable Lawrence MacAulay, P.C., M.P.
Solicitor General of Canada/Le solliciteur général du Canada

April 5, 2002
Date

Page 234
is a duplicate
est un duplicata

Page 235
is a duplicate
est un duplicata

Page 236
is a duplicate
est un duplicata

Page 237
is a duplicate
est un duplicata

Page 238
is a duplicate
est un duplicata

Page 239
is a duplicate
est un duplicata

Page 240
is a duplicate
est un duplicata

Page 241
is a duplicate
est un duplicata

Page 242
is a duplicate
est un duplicata

Page 243
is a duplicate
est un duplicata

Page 244
is a duplicate
est un duplicata

Page 245
is a duplicate
est un duplicata

Page 246
is a duplicate
est un duplicata

Page 247
is a duplicate
est un duplicata

Page 248
is a duplicate
est un duplicata

Page 249
is a duplicate
est un duplicata

DRAFT
ÉBAUCHE

Drafted - Not Enacted

MINISTERIAL DIRECTIVE ON ROYAL
CANADIAN MOUNTED POLICE OPERATIONS
IN FOREIGN COUNTRIES

1. INTRODUCTION

- 1.1 The Ministerial Directive on Police Operations in Foreign Countries establishes operational standards and reporting requirements for RCMP operations conducted abroad.
- 1.2 This Directive is to be read in conjunction with the Ministerial Directive on Police Assistance to Foreign Nations.
- 1.3 The investigation of any criminal offence may require that information or evidence be gathered in a foreign country.
- 1.4 RCMP investigations in a foreign jurisdiction may require the RCMP to become involved in covert operations to gather evidence including, but not limited to, electronic and physical surveillance, the use of RCMP member undercover operatives or the use of agents acting under the direction and control of the RCMP.

2. AUTHORITIES

- 2.1 This Directive is issued pursuant to the Department of the Solicitor General Act, R.S.C. 1985, c. S-13, s.4, the Royal Canadian Mounted Police Act, R.S.C. 1985, c. R-10, as amended by S.C. 1986, c. 11, ss.4 and 5 and Order in

DRAFT
ÉBAUCHE

- 2 -

Council P.C. 1988-1520, dated July 21, 1988, made pursuant to s.4 of the RCMP Act; and the Department of External Affairs Act, R.S.C. 1985, c. E-22.

3. OPERATIONAL STANDARDS

- 3.1 The conduct of all foreign operations is governed by the following standards, unless otherwise specifically authorized by the Solicitor General.
- 3.2 Operations must be directly or indirectly related to serious criminal offences in which there is a significant Canadian interest.
- 3.3 Operations must have the approval of the host government authority.
- 3.4 Operations must be carried out in accordance with the law of the host country.
- 3.5 RCMP members involved in foreign operations are not to participate in any activity that will violate or give the appearance of violating human rights according to the laws and practices of the host country.
- 3.6 RCMP members and agents involved in foreign operations:
 - 3.6.1 shall be identified to the appropriate host law enforcement authority prior to commencement of the operation;

19
AUG 2 19
DRAFT
ÉBAUCHE

- 3 -

- 3.6.2 may only carry firearms in conformity with the law of the host country;
- 3.6.3 shall withdraw from any activity where there is a likelihood of a breach of the provisions of this directive; and,
- 3.6.4 shall refrain from pursuing an activity likely to result in serious physical harm to its members or agents.

4. DUTY TO INFORM

- 4.1 The Solicitor General shall be informed at the earliest opportunity whenever:
 - 4.1.1 physical harm has occurred to or been caused by an RCMP member or agent;
 - 4.1.2 according to the accepted practices of the foreign country, the human rights of a person detained or arrested in the host country are violated or are alleged to have been violated and such detention or arrest is associated with an RCMP foreign operation; or
 - 4.1.3 public controversy has arisen or is likely to arise in connection with an RCMP foreign operation.

DRAFT
ÉBAUCHE

- 4 -

5. DUTY TO CONSULT

5.1 Whenever circumstances arise in which any doubt exists as to whether or not an operation ought to be undertaken in the interest of Canada or a foreign country or the circumstances are likely to cause controversy, the Commissioner shall consult with the Ministry of the Solicitor General.

5.2 Subject to section 5.2.1, the RCMP will undertake to inform the Department of External Affairs and International Trade of proposed visits abroad of RCMP members for operational purposes in sufficient time to allow for consultation and to permit the Department to ensure that the Canadian Mission is informed.

5.2.1 With respect to operations undertaken in the United States of America, the Department of External Affairs need only be consulted by the Force when there is doubt about whether the operation ought to be undertaken or when there is a risk of ensuing controversy.

6. REPORTING REQUIREMENTS

6.1 By June 1st each year, the RCMP shall provide a report to the Solicitor General, on a preceding fiscal year basis, containing the following information:

DRAFT
ÉBAUCHE

- 5 -

- 6.1.1 the foreign countries in which the RCMP conducted investigations as described in paragraph 1.4;
- 6.1.2 whether any complaints were received from police or government authorities in foreign countries where the RCMP conducted investigations;
- 6.1.3 whether there was any deviation from the provisions of the Directive; and
- 6.1.4 any recommendations respecting this policy or its administration.

7. INQUIRIES

Amendments to and interpretations of this Directive are provided under the authority of the Solicitor General of Canada. All inquiries and requests for amendments to or interpretation of this Directive should be referred, in writing through RCMP Headquarters, to the Solicitor General of Canada, attention: Assistant Deputy Solicitor General, Police and Security Branch.

**Pages 255 to / à 265
are withheld pursuant to section
sont retenues en vertu de l'article**

21(1)(a)

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

MINISTERIAL DIRECTIVE
ON THE RCMP DISCIPLINARY
PROCESS

A. This Directive provides ministerial direction to the Commissioner of the Royal Canadian Mounted Police (RCMP) with respect to standardizing the application and enhancing the transparency of the disciplinary process set out in the *RCMP Act*.

Responsibilities and
Accountabilities

B. As per subsection 5(1) of the *RCMP Act*, the control and management of the RCMP, and all matters connected therewith, is the responsibility of the Commissioner of the RCMP, under the direction of the Minister of Public Safety.

C. To promote compliance and accountability, the Commissioner will ensure that comprehensive records of all disciplinary files are maintained and that these files are monitored on an ongoing basis.

D. To enhance accountability, the Commissioner will ensure there is effective coordination and efficient administration of the RCMP disciplinary system.

DIRECTIVE MINISTÉRIELLE
SUR LE PROCESSUS
DISCIPLINAIRE DE LA GRC

A. La présente directive vise à fournir l'orientation ministérielle au commissaire de la Gendarmerie royale du Canada (GRC) en ce qui a trait à la normalisation et à l'amélioration de la transparence du processus disciplinaire défini dans la *Loi sur la Gendarmerie royale du Canada*.

Responsabilités

B. En vertu du paragraphe 5(1) de la *Loi sur la Gendarmerie royale du Canada*, le commissaire de la GRC, sous la direction du ministre de la Sécurité publique a pleine autorité sur la GRC et tout ce qui s'y rapporte.

C. Afin de favoriser la conformité et la responsabilisation, le commissaire doit veiller à ce que des dossiers complets de tous les cas disciplinaires soient tenus, et à ce que ces dossiers soient suivis de près.

D. Afin d'accroître la responsabilisation, le commissaire doit veiller à la coordination efficace et à l'administration efficiente du régime disciplinaire de la GRC.

E. The Commissioner will ensure that an annual report on the management of the disciplinary process is provided to the Minister. The report is to be in a format that is suitable for public release in its entirety. The release of the report is at the discretion of the Minister.

E. Le commissaire doit s'assurer qu'un rapport annuel sur la gestion du processus disciplinaire est présenté au ministre. Le rapport entier doit être présenté dans une forme convenable à la diffusion publique. La publication du rapport est à la discrétion du ministre.

F. The Commissioner will ensure that nationally consistent policies and protocols are in place and updated when necessary to inform members of the requirements and procedures associated with the disciplinary process. The Commissioner will also ensure that regular training is provided to appropriate RCMP staff to promote awareness of and compliance with such requirements and procedures.

F. Le commissaire doit s'assurer que des politiques et des protocoles conformes à l'échelle nationale sont en place, et mis à jour au besoin, pour informer les membres au sujet des exigences et des procédures liées au processus disciplinaire. Le commissaire doit également s'assurer que des membres compétents de la GRC reçoivent de la formation afin de faire connaître ces exigences et procédures et de favoriser le respect de celles-ci.

G. In addition to the annual report, as part of the accountability process, a designated representative of the Commissioner will, having given due regard to legal and operational considerations, inform the Minister in a timely manner of matters of a significant nature pertaining to the disciplinary process.

G. En plus du rapport annuel et dans le cadre du processus de responsabilisation, un représentant désigné du commissaire, ayant dûment tenu compte des considérations juridiques et opérationnelles, informera le ministre en temps opportun des problèmes de nature importante ayant trait au processus disciplinaire.

Minister of Public Safety/Ministre de la Sécurité publique

JAN 24 2008

Date

Ministerial Directives

1987

MINISTERIAL DIRECTIVE RELEASE OF CRIMINAL RECORD INFORMATION BY THE ROYAL CANADIAN MOUNTED POLICE

DIRECTIVE MINISTÉRIELLE CONCERNANT LA DIVULGATION PAR LA GENDARMERIE ROYALE DU CANADA DE RENSEIGNEMENTS SUR LES ANTÉCÉDENTS JUDICIAIRES

This directive cancels any existing Ministerial directives respecting the release of Criminal Record Information.

La présente directive annule toute directive ministérielle existante concernant la divulgation de renseignements sur les antécédents judiciaires.

GENERAL

For the purpose of this directive, Criminal Record Information means criminal records, fingerprints and photographs maintained by the RCMP.

This information is used by domestic and foreign law enforcement and investigative agencies of federal / provincial / state and municipal governments, departments of the Criminal Justice System and Courts, in the administration or enforcement of the law, in the detection, prevention or suppression of crime generally and for national security purposes.

These records may be made available as specified in this document.

GÉNÉRALITÉS

Aux fins de la présente directive, on entend par renseignements sur les antécédents judiciaires les casiers judiciaires, les empreintes digitales et les photographies conservées par la G.R.C.

Les renseignements en cause servent aux organismes chargés des enquêtes et de l'application de la loi, tant au Canada qu'à l'étranger, au sein des administrations fédérales, provinciales, municipales ou d'État, des ministères du système de justice pénale et des tribunaux, pour l'administration ou l'application de la loi, pour la détection, la prévention et la suppression du crime en général et à des fins de sécurité nationale.

Les pièces peuvent être communiquées aux conditions indiquées ci-après.

REFERENCES

- a) Identification of Criminals Act
- b) Criminal Records Act
- c) Young Offenders Act

RÉFÉRENCES

- a) La Loi sur l'identification des criminels
- b) La Loi sur le casier judiciaire
- (e) La Loi sur les jeunes contrevenants

.../2

Ministerial Directives

1987

- 2 -

- | | |
|--|---|
| d) Privacy Act | d) La Loi sur la protection des renseignements personnels |
| e) Canadian Security Intelligence Service Act | (e) Loi sur le Service canadien du renseignement de sécurité |
| f) Criminal Code, Section 662.1 | f) Le Code criminel, article 662.1 |
| g) Security Policy of the Government of Canada | g) La Politique du Gouvernement canadien en matière de sécurité |
| h) RCMP Administrative Manual III.5.C. | h) L'article III.5.C. du Manuel d'administration de la G.R.C. |

POLICY

Criminal Record Information may be released to the following:

1. Canadian police forces, crown prosecutors and enforcement/investigative bodies of federal or provincial government departments; and on a reciprocal basis only, foreign police forces, prosecutors and enforcement/investigative bodies of government departments; for use in connection with their official duties and responsibilities in relation to administration of the Law.
2. Insurance Crime Prevention Bureaux for use when assisting Canadian Police Forces in the investigation of arson, auto theft and related offences, such as conspiracy, fraud, and possession of stolen property.

POLITIQUE

Les renseignements sur les antécédents judiciaires peuvent être divulgués:

1. Aux services de police, aux procureurs de la Couronne et aux organismes d'enquête et d'application de la loi des gouvernements fédéral ou provinciaux du Canada et sur une base de réciprocité seulement, aux services de police, aux procureurs ainsi qu'aux organismes d'enquête et d'application de la loi des différents ministères publics à des fins reliées à leurs responsabilités et à leurs fonctions officielles en matière d'exécution ou d'application de la loi.
2. Aux Services anti-crime des assureurs lorsqu'ils sont appelés à aider des services de police canadiens à faire enquête sur des incendies criminels, des vols de véhicules ou des crimes du même genre, tels que les complots, la fraude et la possession de biens volés.

.../3

Ministerial Directives

1987

- 3 -

3. Research groups conducting studies which are related to the execution or administration of the law, including evaluation of treatment or correctional programs, when the research is being conducted by or on behalf of a Canadian Police Force, a provincial or federal correctional or parole service, a provincial Attorney or Solicitor General, a federal/provincial Minister of Justice or the Solicitor General of Canada.
 4. Canadian parole and probation agencies; and on a reciprocal basis only, foreign parole and probation agencies; for use in connection with their official duties and responsibilities in relation to the execution or administration of the law.
 5. Canadian correctional services; and on a reciprocal basis only, foreign correctional services; for purposes of prevention of crime, preserving security of the institution and custodial requirements.
 6. Departmental Security Officers of federal/provincial Departments, Crown Corporations and other federal/provincial agencies with respect to applicants for employment and employees in positions where they will have access to classified information or who by the nature of their duties are required to be checked for reliability.
3. Aux groupes de recherche chargés d'études relatives à l'exécution ou à l'application de la loi, y compris de l'évaluation des programmes correctionnels et de traitement, lorsque ces études sont menées par un service de police canadien, un service correctionnel ou de libération conditionnelle fédéral ou provincial, un procureur ou solliciteur général provincial, un ministre de la Justice fédéral ou provincial ou le Solliciteur général du Canada, ou au nom de l'un d'entre eux.
 4. Aux organismes canadiens chargés de la liberté conditionnelle et surveillée; et sur une base de réciprocité seulement, aux organismes étrangers chargés de la liberté conditionnelle et surveillée; pourvu que ce soit à des fins reliées à leurs responsabilités et à leurs fonctions officielles en matière d'exécution ou d'application de la loi.
 5. Aux services correctionnels canadiens et, sur une base de réciprocité seulement, à leurs homologues étrangers, afin de prévenir le crime, assurer la sécurité de leurs institutions et satisfaire aux exigences relatives à la détention.
 6. Aux agents de sécurité des ministères fédéraux et provinciaux, des sociétés de la Couronne et des autres organismes fédéraux et provinciaux, aux fins du triage sécuritaire des personnes qui postulent un emploi dans ces organisations et des employés qui auront accès à des renseignements de nature classifiée ou qui, par leurs fonctions, doivent faire l'objet d'une enquête de fiabilité.

.../4

Ministerial Directives

1987

- 4 -

7. Citizenship Registration Branch with respect to applicants for Canadian citizenship.
 8. Chief Supervisor, Race Track Supervision, Department of Agriculture, with respect to those race track pari-mutual employees who must provide fingerprints for purposes of security or identification under the Race Track Supervision Regulations made pursuant to the Criminal Code.
 9. The Canadian Corps of Commissionaires with respect to the applicants for engagement in that organization.
 10. Individuals who are entitled to copies of their own records under the Privacy Act and individuals who request their records for purposes of obtaining visas, foreign work permits, border-crossing cards, other documents for immigration, foreign travel, entry into Canada or for humanitarian reasons.
 11. Department of External Affairs with respect to Canadians, landed immigrants or persons who have resided in Canada who are applying for employment in foreign embassies and consulates.
 12. Canadian police forces, correctional services and enforcement/investigative bodies of federal/provincial government departments; and on a reciprocal basis only, foreign police forces and correctional services and enforcement/investigative bodies of government departments; for use in determining the reliability of applicants for employment with these agencies.
7. A la Direction de l'enregistrement de la citoyenneté au sujet des personnes qui demandent la citoyenneté canadienne.
 8. A l'inspecteur en chef du Service de surveillance des hippodromes, ministère de l'Agriculture, concernant les préposés au pari-mutuel qui doivent faire prendre leurs empreintes digitales à des fins de sécurité ou d'identification en vertu du Règlement sur la surveillance des hippodromes, conformément au Code Criminel.
 9. Au Corps canadien des commissionnaires, au sujet des personnes qui postulent un emploi au sein de cette organisation.
 10. Aux personnes autorisées à recevoir une copie de leur propre dossier aux termes de la Loi sur la protection des renseignements personnels et à celles qui ont besoin de leur dossier pour obtenir un visa, un permis de travail à l'étranger, une carte pour traverser la frontière ou autres documents à des fins d'immigration, de voyage à l'étranger, d'entrée au Canada ou pour des raisons humanitaires.
 11. Au ministère des Affaires extérieures concernant les citoyens canadiens, les immigrants reçus ou les ex-résidents qui postulent un emploi dans une ambassade ou un consulat étranger.
 12. Aux corps policiers, aux services correctionnels et aux services d'enquête et d'application des lois fédérales et provinciales du Canada et, sur une base de réciprocité seulement, à leurs homologues étrangers, afin de déterminer la fiabilité des personnes qui postulent un emploi au sein de ces organisations.

.../5

Ministerial Directives

1987

- 5 -

- | | |
|---|---|
| 13. Federal/provincial municipal government agencies responsible for licencing. | 13. Aux organismes fédéraux, provinciaux et municipaux chargés d'émettre des permis. |
| 14. Police forces who, in the public interest and for purposes of preventing crime, are required to make recommendations as to the reliability of a person for a particular type of position such as, but not limited to, firemen, school bus drivers and crossing guards, block parents, big brothers and big sisters. | 14. Aux services de police qui, dans l'intérêt du public et afin de prévenir le crime, sont tenus de faire des recommandations relatives à la fiabilité des personnes appelées à exercer certains genres de fonctions, par exemple celles de pompier, de conducteur d'autobus scolaire et de brigadier, de parent-secours, de grand-frère et de grande soeur. |
| 15. Those agencies or persons authorized to receive criminal record information under sections 40-44.2 of the Young Offenders Act. | 15. Aux personnes ou organisations autorisées à recevoir des renseignements sur les antécédents criminels aux termes des articles 40-44.2 de la Loi sur les jeunes contrevenants. |

REQUIREMENT FOR FINGERPRINTS

Fingerprints will be required for positive identification before criminal records are released, EXCEPT that this requirement may be waived when information or criminal records are requested for:

- (a) Use in the investigation of offences or other law enforcement purposes, custodial responsibilities or the administration of justice
- (b) Prosecutions
- (c) Crime prevention purposes such as screening visitors to correctional institutions, screening persons having contact with parolees, screening persons involved with the security of internationally protected persons or involved in security at major public events

EXIGENCE DES EMPREINTES DIGITALES

On exigera les empreintes digitales pour s'assurer de l'identité de la personne intéressée avant de divulguer son casier judiciaire, MAIS on pourra passer outre à cette exigence lorsque les renseignements ou les casiers judiciaires sont sollicités pour:

- (a) des enquêtes judiciaires ou dans un autre but relié à l'application de la loi, pour des fins de détention ou pour l'administration de la justice.
- (b) des poursuites
- (c) la prévention du crime, notamment au triage sécuritaire de visiteurs dans des institutions correctionnelles, de personnes en contact avec des individus en liberté conditionnelle ou de celles qui sont chargées de protéger des gens bénéficiant d'une protection internationale ou d'assurer la sécurité à des événements publics importants

.../6

Ministerial Directives

1987

- 6 -

- | | |
|--|--|
| (d) the preparation of security assessments pursuant to Section 13 of the <u>Canadian Security Intelligence Service Act</u> or the investigation of threats to the security of Canada (as defined in Section 2 of the <u>Canadian Security Intelligence Service Act</u>). | (d) la préparation d'évaluation de sécurité selon l'article 13 de la <u>Loi sur le Service canadien du renseignement de sécurité</u> ou aux enquêtes sur des menaces envers la sécurité du Canada (tel que défini à l'article 2 de la <u>Loi sur le Service canadien du renseignement de sécurité</u>). |
| (e) parole purposes when it is not possible to obtain fingerprints of the parole applicant or when the parole officer knows the individual and has his FPS number. | (e) des fins de la libération conditionnelle lorsqu'il est impossible d'obtenir les empreintes du requérant ou que l'agent des libérations conditionnelles connaît cette personne et son numéro FPS |
| (f) probation and pre-sentence purpose when it is not possible to obtain fingerprints or when the probation officer knows the individual and has his FPS number | (f) des fins de la probation ou du rapport pré-sentenciel lorsqu'il est impossible d'obtenir les empreintes digitales d'un sujet ou que l'agent de probation connaît cette personne et son numéro FPS |
| (g) research purposes | (g) des fins de recherche, et |
| (h) purposes authorized by the Young Offenders Act and it is not possible to obtain fingerprints. | (h) des fins autorisées par la Loi sur les jeunes contrevenants lorsqu'il est impossible d'obtenir des empreintes digitales. |

.../7

Ministerial Directives

1987

- 7 -

IMPROPER USE OR DISSEMINATION OF CRIMINAL RECORD INFORMATION

The disclosure of criminal records, which contain only discharges under Section 662.1 of the Criminal Code and/or non-convictions, in certain circumstances may have adverse consequences on an individual's reputation, employment, mobility or access to services. Accordingly, caution must be exercised when disclosing these records in connection with non-criminal inquiries, especially border crossings. It must be remembered also that records of YOUNG OFFENDERS can only be disclosed in accordance with the provisions of the Young Offenders Act.

Where there is an indication that an agency referred to in this document has improperly used or disseminated Criminal Record Information or has failed to purge or return such information when requested to do so, enquiries will be conducted and where warranted, steps shall be taken to have the situation corrected. Failure to comply with the intent of this directive by any of the agencies may result in the modification, suspension or cancellation of these services.

APPROVED BY:
APPROUVÉ PAR: _____

Solicitor General of Canada
Solliciteur général du Canada

Dated this _____
En date du _____

of _____
de _____

at Ottawa, Ontario

DIVULGATION OU UTILISATION INCORRECTE DE RENSEIGNEMENTS SUR LES ANTÉCÉDENTS JUDICIAIRES

La divulgation de casiers judiciaires ne contenant qu'un énoncé de non-condamnation ou de libération aux termes de l'article 662.1 du Code criminel peut, dans certaines circonstances, nuire à la réputation d'un individu, à sa capacité d'emploi, à sa mobilité et à ses possibilités d'accès aux services. Il faudra donc faire attention à la divulgation de ces dossiers dans les cas d'enquêtes non criminelles, particulièrement en ce qui concerne les visites à l'étranger. Il importe en outre de se rappeler que les dossiers de JEUNES CONTREVENANTS ne peuvent être communiqués que conformément aux dispositions de la Loi sur les jeunes contrevenants.

Lorsqu'il appert qu'un organisme dont il est fait mention dans ce document a divulgué ou utilisé de manière incorrecte des renseignements sur des antécédents judiciaires ou omis de détruire ou de retourner ces renseignements comme cela lui avait été demandé, une enquête sera menée et, au besoin, les mesures qui s'imposent seront prises pour corriger la situation. Tout organisme qui ne se conforme pas à cette directive peut voir ces services modifiés, suspendus ou annulés.

BULLETIN

National DNA Data Bank

Crime Scene Index

- Members may only submit to the forensic labs, for forensic DNA analysis and inclusion of the derived DNA profile into the National DNA Data Bank Crime Scene Index , samples of bodily substances from an **unsolved** crime that were found:
 - a: at any place where a designated offence, sec. 487.04 CC. was committed.
 - b: on or within the body of the victim of a designated offence
 - c: on anything worn or carried by the victim at the time when a designated offence was committed
 - d: on or within the body of any person or thing or at any place associated with the commission of a designated offence
- Members will advise the appropriate forensic lab to remove from the crime scene index the DNA profile of:
 - a: a victim that was the object of the relevant investigation;
 - b: a person who has been eliminated as a suspect in the relevant investigation.

Fichier de criminalistique

- Les membres peuvent seulement soumettre au laboratoire judiciaire, pour l'analyse génétique et l'inclusion de profils d'identification génétique dans le fichier de criminalistique de la banque national de données génétiques, les échantillons de substances corporelles d'une infraction désignée qui n'a pas été élucidée et qui ont été trouvées:
 - a: sur le lieu d'une infraction désignée
 - b: sur la victime de celle-ci ou à l'intérieur de son corps,
 - c: sur ce qu'elle portait ou transportait lors de la perpétration de l'infraction
 - d: sur toute personne ou chose ou à l'intérieur de l'une ou l'autre ou en tout lieu liés à la perpétration de l'infraction
- Les membres devront aviser le laboratoire judiciaire pertinent d'extirper du fichier de criminalistique le profil d'identification génétique:
 - a: de la victime qui a fait l'objet de l'enquête;
 - b: d'une personne qui, dans le cadre de l'enquête, n'est plus considérée comme un suspect.

Minister of Public Safety



Ministre de la Sécurité publique

Ottawa, Canada K1A 0P8

MINISTERIAL DIRECTIVE CONCERNING THE RELEASE OF CRIMINAL RECORD INFORMATION BY THE ROYAL CANADIAN MOUNTED POLICE

DIRECTIVE MINISTÉRIELLE CONCERNANT LA DIVULGATION PAR LA GENDARMERIE ROYALE DU CANADA DE ENSEIGNEMENTS SUR LES ANTÉCÉDENTS JUDICIAIRES

This directive replaces all previous Ministerial Directives respecting the use and disclosure of Criminal Record Information, and any such directive is hereby revoked.

La présente directive remplace toutes les directives ministérielles précédentes concernant la divulgation et l'utilisation de renseignements sur les antécédents judiciaires, qui, par les présentes, sont révoquées.

GENERAL

GÉNÉRALITÉS

Criminal Record Information means criminal records, fingerprints, photographs, and related information maintained in the RCMP National Repository of Criminal Records. Information for vulnerable sector purposes also means pardoned sexual offence convictions maintained in the RCMP National Repository of Criminal Records.

Aux fins des présentes, on entend par renseignements sur les antécédents judiciaires : les casiers judiciaires, les empreintes digitales, les photographies et les renseignements connexes conservés au dépôt national d'information sur les casiers judiciaires de la GRC. Les renseignements visant une personne appelée à travailler auprès de personnes vulnérables désignent également les condamnations pour infractions d'ordre sexuel ayant fait l'objet d'une réhabilitation, qui sont conservées au dépôt national d'information sur les casiers judiciaires de la GRC.

This information is used by domestic and foreign law enforcement and investigative agencies of federal/provincial/territorial/state and municipal governments, departments of the criminal justice systems and the courts, in the administration or enforcement of the law and in the detection, prevention or suppression of crime generally. It is also used by federal / provincial/ territorial/ municipal agencies for security and reliability screening and by the Canadian Security Intelligence Service for the purposes of investigating threats to the security of Canada and the preparation of security assessments. These

Les renseignements en cause servent aux organismes chargés des enquêtes et de l'application de la loi, tant au Canada qu'à l'étranger, au sein des administrations fédérales, provinciales, territoriales, municipales ou d'État, des ministères du système de justice pénale et des tribunaux pour l'administration ou l'application de la loi, pour la détection, la prévention ou la suppression du crime en général. Ils servent également aux organismes fédéraux, provinciaux, territoriaux et municipaux pour effectuer les contrôles de sécurité et de fiabilité, et au Service canadien du renseignement de sécurité pour

records may be made available as specified in this document.

It is anticipated that the components of this directive, including confirmation of a criminal record and the release of criminal record convictions by police of local jurisdiction, as well as the improper use or dissemination of criminal record information, will remain in effect until the RCMP criminal records system is fully automated and fingerprints are required for all criminal record and vulnerable sector verifications. At that point, a new Ministerial Directive will be issued to that effect.

REFERENCES

- a) *Identification of Criminals Act*
- b) *Criminal Records Act*
- c) *Youth Criminal Justice Act*
- d) *Privacy Act*
- e) *Canadian Security Intelligence Service Act*
- f) *Criminal Code of Canada*
- g) Security Policy of the Government of Canada
- h) RCMP Administrative Manual
- i) CPIC Reference Manual

POLICY WITH RESPECT TO DISCLOSURE OF CRIMINAL RECORDS

Criminal Record Information may be released to the following:

1. Canadian police services, crown prosecutors and enforcement/ investigative bodies of federal or provincial government departments; and on a reciprocal basis only, foreign police

enquêter sur les menaces à la sécurité du Canada et pour préparer les évaluations de sécurité. Les pièces peuvent être communiquées aux conditions indiquées ci-après.

On prévoit que les éléments de la présente directive, y compris la confirmation d'un casier judiciaire et la divulgation des condamnations figurant dans le casier judiciaire par les services de police de compétence locale, ainsi que la divulgation ou l'utilisation impropre des renseignements sur les antécédents judiciaires, demeureront en vigueur jusqu'à ce que le système des casiers judiciaires de la GRC soit entièrement automatisé et que les empreintes digitales soient exigées pour toutes les vérifications de casier judiciaire et de personnes appelées à travailler auprès de personnes vulnérables. Une nouvelle directive ministérielle sera alors émise à cet effet.

RÉFÉRENCES

- a) *La Loi sur l'identification des criminels*
- b) *La Loi sur le casier judiciaire*
- c) *La Loi sur le système de justice pénale pour les adolescents*
- d) *La Loi sur la protection des renseignements personnels*
- e) *La Loi sur le Service canadien du renseignement de sécurité*
- f) *Le Code criminel du Canada*
- g) La politique du gouvernement canadien en matière de sécurité
- h) Le Manuel d'administration de la GRC
- i) Le Manuel de référence du CIPC

POLITIQUE RELATIVE À LA DIVULGATION DE RENSEIGNEMENTS SUR LES ANTÉCÉDENTS JUDICIAIRES

Les renseignements sur les antécédents judiciaires peuvent être divulgués :

1. aux services de police, aux procureurs de la Couronne et aux organismes d'enquête et d'application de la loi des gouvernements fédéral ou provinciaux du Canada et, sur une

| | |
|--|--|
| <p>forces, prosecutors and enforcement/ investigative bodies of government departments; for use in connection with their official duties and responsibilities in relation to the enforcement or administration of the law;</p> | <p>base de réciprocité seulement, aux services de police à l'étranger, aux procureurs et aux organismes d'enquête ou d'application de la loi des différents ministères publics à l'étranger, pourvu que ce soit à des fins reliées à leurs responsabilités et à leurs fonctions officielles en matière d'exécution ou d'application de la loi;</p> |
| <p>2. Insurance Crime Prevention Bureaus for use such as assisting Canadian police services in the investigation of arson;</p> | <p>2. aux Services anti-crime des assureurs lorsqu'ils sont appelés à aider les services de police canadiens à faire enquête sur des incendies criminels;</p> |
| <p>3. Research groups conducting studies which are related to the execution or administration of the law, including evaluation of treatment or correctional programs, when the research is being conducted by or on behalf of a Canadian police service, a provincial, territorial or federal correctional or parole service, a provincial, territorial or federal Attorney General or Solicitor General or minister responsible for Justice, corrections or policing;</p> | <p>3. aux groupes de recherche chargés d'études relatives à l'exécution ou à l'application de la loi, y compris de l'évaluation des programmes correctionnels et de traitement, lorsque ces études sont menées par ou au nom d'un service de police canadien, un service correctionnel ou de libération conditionnelle fédéral, provincial ou territorial, un procureur général ou solliciteur général fédéral, provincial ou territorial, un ministre responsable de la Justice, des services correctionnels ou du maintien de l'ordre;</p> |
| <p>4. Canadian parole and probation agencies; and on a reciprocal basis only, foreign parole and probation agencies; for use in connection with their official duties and responsibilities in relation to the execution or administration of the law;</p> | <p>4. aux organismes canadiens chargés de la liberté conditionnelle et surveillée; et sur une base de réciprocité seulement, aux organismes étrangers chargés de la liberté conditionnelle et surveillée; pourvu que ce soit à des fins reliées à leurs responsabilités et à leurs fonctions officielles d'exécution ou d'application de la loi;</p> |
| <p>5. Canadian correctional services; and on a reciprocal basis only, foreign correctional services; for purposes of prevention of crime, preserving security of the institution and custodial requirements;</p> | <p>5. aux services correctionnels canadiens et, sur une base de réciprocité seulement, à leurs homologues étrangers afin de prévenir le crime, de protéger la sécurité de leurs institutions et de satisfaire aux exigences relatives à la détention;</p> |
| <p>6. Departmental Security Officers of federal/provincial/territorial Departments,</p> | <p>6. aux agents de sécurité des ministères fédéraux, provinciaux et territoriaux, des</p> |

| | |
|--|---|
| <p>Crown Corporations and other federal/provincial/territorial agencies with respect to applicants for employment and employees in positions where they will have access to classified information or who by the nature of their duties are required to be checked for reliability;</p> | <p>sociétés d'État et des autres organismes fédéraux, provinciaux et territoriaux aux fins de triage sécuritaire des personnes qui postulent pour un emploi dans ces organisations et des employés qui auront accès à des renseignements de nature classifiée ou qui, par leurs fonctions, doivent faire l'objet d'une enquête de fiabilité;</p> |
| <p>7. Federal, provincial, territorial, and municipal agencies for the purposes of criminal record screening required by legislation;</p> | <p>7. aux organismes fédéraux, provinciaux, territoriaux et municipaux aux fins de contrôle des antécédents judiciaires lorsque la loi l'exige;</p> |
| <p>8. Individuals who are entitled to copies of their own records under the <i>Privacy Act</i> and individuals who request their records for purposes of obtaining paid or volunteer positions, visas, foreign work permits, border-crossing cards, other documents for immigration, foreign travel, entry into Canada, other situations where criminality screening is required, or for humanitarian reasons;</p> | <p>8. aux personnes autorisées à recevoir une copie de leur propre dossier en vertu de la <i>Loi sur la protection des renseignements personnels</i> et à celles qui ont besoin de leur dossier pour obtenir un emploi rémunéré ou bénévole, un visa, un permis de travail à l'étranger, une carte pour traverser la frontière, d'autres documents à des fins d'immigration, de voyage à l'étranger, d'entrée au Canada ou dans d'autres situations où le contrôle des antécédents judiciaires est obligatoire, ou pour des raisons humanitaires;</p> |
| <p>9. Private companies or organizations for the purposes of employment or volunteer screening when the disclosure has been authorized by the individual being screened;</p> | <p>9. aux entreprises ou aux organisations du secteur privé aux fins de triage sécuritaire des personnes qui postulent pour un emploi rémunéré ou bénévole lorsque la divulgation a été autorisée par la personne faisant l'objet du contrôle;</p> |
| <p>10. Police agencies and authorized bodies, as determined by provincial and territorial governments, for the purposes of screening related to involvement in the vulnerable sector, and;</p> | <p>10. aux corps policiers et aux organismes autorisés, déterminés par les gouvernements provinciaux et territoriaux, aux fins de triage sécuritaire de personnes qui postulent pour un emploi pour travailler auprès de personnes vulnérables;</p> |
| <p>11. Those agencies or persons authorized to receive criminal records related to young persons.</p> | <p>11. aux personnes ou organisations autorisées à recevoir des renseignements sur les casiers judiciaires d'adolescents.</p> |

REQUIREMENT FOR FINGERPRINTS

Fingerprints will be required for positive identification before criminal records are disclosed EXCEPT that this requirement may be waived when information or criminal records are requested for:

- a) Use in the investigation of offences or other law enforcement purposes, custodial responsibilities or the administration of justice;
- b) Prosecutions;
- c) Crime prevention purposes specific to screening visitors to correctional institutions, screening persons having contact with parolees, screening persons involved with the security of internationally protected persons or involved in security at major public events;
- d) The preparation of security assessments by the Canadian Security Intelligence Service;
- e) Parole purposes when it is not possible to obtain fingerprints of the parole applicant or when the parole officer knows the individual and has his/her FPS number;
- f) Probation and pre-sentence purposes when it is not possible to obtain fingerprints or when the probation officer knows the individual and has his/her FPS number;
- g) Research purposes, or;
- h) Purposes authorized by the *Youth Criminal Justice Act* when it is not possible to obtain fingerprints.

EXIGENCE RELATIVE AUX EMPREINTES DIGITALES

On exigera les empreintes digitales pour s'assurer de l'identité de la personne intéressée avant de divulguer son casier judiciaire. Cette exigence peut être dispensée lorsque des renseignements ou les casiers judiciaires sont sollicités pour :

- a) des enquêtes judiciaires ou dans un autre but relié à l'application de la loi, pour des fins de détention ou pour l'administration de la justice;
- b) des poursuites;
- c) la prévention du crime, notamment au triage sécuritaire de visiteurs dans des établissements correctionnels, de personnes en contact avec des individus en liberté conditionnelle, ou de celles qui sont chargées de protéger des gens bénéficiant d'une protection internationale ou d'assurer la sécurité à des événements publics importants;
- d) la préparation d'évaluations de sécurité par le Service canadien du renseignement de sécurité;
- e) des fins de la libération conditionnelle lorsqu'il est impossible d'obtenir les empreintes digitales du requérant ou que l'agent des libérations conditionnelles connaît cette personne et son numéro FPS;
- f) des fins de probation ou du rapport présentenciel lorsqu'il est impossible d'obtenir les empreintes digitales d'un sujet ou que l'agent de probation connaît cette personne et son numéro FPS;
- g) des fins de recherche, ou
- h) des fins autorisées par la *Loi sur le système de justice pénale pour les adolescents* lorsqu'il est impossible d'obtenir des

| | |
|---|---|
| <p>Reporting with respect to Criminal Records</p> <p>The RCMP is to develop and implement procedures which will provide two forms of reports with respect to an applicant's criminal history:</p> <p>1. <u>Confirmation of a Criminal Record</u></p> <p>Confirmation of a Criminal Record is primarily intended to permit businesses and potential employers to determine whether an applicant has a criminal record so as to support hiring decisions.</p> <ul style="list-style-type: none">• This report may be provided by a police service:<ul style="list-style-type: none">○ when the police service has confirmed the identity of the applicant in accordance with standards set by the RCMP, and;○ when the police service obtains from the applicant a declaration of criminal record in a form specified by the RCMP.• This report will confirm whether or not a criminal record declared by an applicant appears to match a registered criminal record in the RCMP National Repository of Criminal Records.• The report should clearly state that the confirmation does not deal with records relating to 'young persons' pursuant to the <i>Youth Criminal Justice Act</i> or the existence of an offence for which a pardon has been granted. | <p>empreintes digitales.</p> <p>Rapports sur les antécédents judiciaires</p> <p>La GRC doit élaborer et mettre en œuvre des procédures qui prévoient deux formes de rapports sur les antécédents judiciaires d'un demandeur :</p> <p>1. <u>Confirmation d'un casier judiciaire</u></p> <p>La confirmation d'un casier judiciaire vise principalement à permettre aux entreprises et aux employeurs de déterminer si une personne postulant pour un emploi a un casier judiciaire de façon à prendre leurs décisions d'embauche en conséquence.</p> <ul style="list-style-type: none">• Ce rapport peut être fourni par un service de police :<ul style="list-style-type: none">○ lorsque le service de police a confirmé l'identité du requérant conformément aux normes établies par la GRC;○ lorsque le service de police obtient du requérant une déclaration de casier judiciaire sous la forme prescrite par la GRC.• Ce rapport confirmera si un casier judiciaire déclaré par un requérant semble correspondre ou non à un casier judiciaire enregistré dans le dépôt national d'information sur les casiers judiciaires de la GRC.• Le rapport doit indiquer clairement que la confirmation ne concerne pas un dossier visant un « adolescent » conformément à la <i>Loi sur le système de justice pénale pour les adolescents</i> ou l'existence d'une infraction pour laquelle une réhabilitation a été octroyée. |
|---|---|

Where a Confirmation of a Criminal Record has been sought by an applicant, a police service of local jurisdiction where the applicant resides may release to the applicant a report, in a form to be established by the RCMP, of the applicant's adult convictions and associated criminal record information from the RCMP National Repository of Criminal Records.

2. Vulnerable Sector Verification

This report is primarily intended to assist organizations in screening applicants for positions of authority or trust relative to children or other vulnerable persons.

A Vulnerable Sector Verification is a query of:

- the RCMP National Repository of Criminal Records, including pardoned criminal files associated with sexually based criminal offences;
- Canadian Police Information Centre Intelligence and Investigative databanks, and;
- police service records management systems where the applicant has resided.

The organizations that will be relying upon this report provide services involving young people and other vulnerable populations. As a result, accuracy of the report is a paramount concern. The RCMP should, bearing in mind the importance of the accuracy of the report, establish processes and standards which ensure the accuracy of the applicant's identity and ensure that the

Lorsqu'une personne postulant pour un emploi a demandé une confirmation de casier judiciaire, un service de police de la municipalité dans laquelle la personne réside peut communiquer à cette dernière, sous une forme prescrite par la GRC, un rapport de ses condamnations d'adulte et les renseignements connexes sur son casier judiciaire enregistrés au dépôt national d'information sur les casiers judiciaires de la GRC.

2. Vérification de personnes appelées à travailler auprès de personnes vulnérables

Ce rapport vise principalement à aider les organisations à effectuer le triage sécuritaire des candidats à un poste rémunéré ou bénévole si ce poste les place en relation d'autorité ou de confiance avec des enfants ou d'autres personnes vulnérables.

Une vérification de personnes appelées à travailler auprès de personnes vulnérables est une demande de renseignements dans :

- le dépôt national d'information sur les casiers judiciaires de la GRC, y compris les dossiers criminels ayant fait l'objet d'une réhabilitation qui sont liés à des infractions criminelles d'ordre sexuel;
- les banques de données du renseignement et des enquêtes du Centre d'information de la police canadienne;
- les systèmes de gestion des dossiers des services de police des municipalités où la personne visée a résidé.

Les organisations qui se reposeront sur ce rapport assurent la prestation de services à des adolescents et d'autres personnes vulnérables. L'exactitude du rapport est par conséquent fondamentale. Tout en gardant à l'esprit l'importance de l'exactitude du rapport, la GRC doit établir des processus et des normes qui permettent de s'assurer que l'identité de la

report accurately reflects the applicant's history of sexual offence convictions and/or pardons (if any):

Where a Vulnerable Sector Verification report has been sought by an organization, and the identity of an applicant for a vulnerable sector position has been confirmed to the standards established by the RCMP, the police service of local jurisdiction where the applicant resides or authorized body as described in the *Criminal Records Act* may release the results, in accordance with federal laws, in a form to be established by the RCMP, that confirms that:

- 1) the applicant has been convicted of criminal offences, as listed, with specific reference and identification of any sexual offences and/or pardoned sexual offences;
- 2) the applicant has no convictions with respect to sexual offences or otherwise, registered in the Criminal Record Repository; or
- 3) it is not possible to confirm, through a criminal records check, whether the applicant has been convicted of criminal offences including any sexual offences.

General

In developing the procedures to permit the promulgation of these reports it must be remembered that improper disclosure of criminal records, or disclosure of records of absolute or conditional discharges under the *Criminal Code* and/or non-convictions may have an adverse effect upon many aspects of an individual's life.

personne visée est exacte et que le rapport correspond exactement à l'historique des condamnations et(ou), le cas échéant, des réhabilitations pour des infractions d'ordre sexuel de la personne visée.

Lorsqu'un rapport de vérification d'une personne appelée à travailler auprès de personnes vulnérables a été demandé par une organisation, et que l'identité de la personne ayant postulé pour un emploi auprès de personnes vulnérables a été confirmée selon les normes établies par la GRC, le service de police de la municipalité dans laquelle la personne visée réside, ou l'autorité compétente tels que décrite dans la *Loi sur le casier judiciaire*, peut communiquer les résultats, conformément aux lois fédérales, sous une forme prescrite par la GRC, qui confirment que :

- 1) la personne visée a été condamnée pour des infractions criminelles, qui sont énumérées, avec une mention précise et complète de toute infraction d'ordre sexuel et(ou) des infractions d'ordre sexuel ayant fait l'objet d'une réhabilitation;
- 2) la personne visée n'a pas de condamnations pour des infractions d'ordre sexuel ou d'une autre nature, enregistrées dans le dépôt d'information sur les casiers judiciaires; ou
- 3) il n'est pas possible de confirmer, par une vérification du casier judiciaire, si la personne visée a été condamnée pour des infractions criminelles, y compris des infractions d'ordre sexuel.

Généralités

Lors de l'élaboration des procédures pour autoriser la promulgation de ces rapports, il faut se rappeler que la divulgation impropre de casiers judiciaires, ou la divulgation de dossiers d'absolution inconditionnelle ou sous conditions en vertu du *Code criminel* et(ou) de non-condamnations, peut avoir des effets néfastes sur

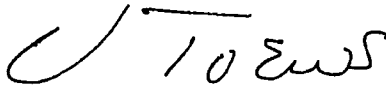
Records of 'young persons' can only be disclosed in accordance with the provisions of the *Youth Criminal Justice Act*.

Policies and practices should be developed to ensure that standards for disclosure and accuracy of these reports and access to criminal records and database information are maintained and that improper use or disclosure of information is not permitted. The RCMP should take steps, up to and including suspension of services and access to CPIC and related systems administered by the RCMP, as are necessary to protect the integrity of the process.

de nombreux aspects de la vie d'une personne. On ne peut communiquer le dossier d'un adolescent que conformément aux dispositions de la *Loi sur le système de justice pénale pour les adolescents*.

Les politiques et les pratiques doivent être élaborés de façon à assurer le maintien des normes de divulgation et l'exactitude de ces rapports, ainsi que des normes d'accès aux renseignements sur les antécédents judiciaires et aux bases de données de façon à prévenir l'utilisation ou la divulgation impropre de renseignements. La GRC doit prendre les mesures jugées nécessaires pour protéger l'intégrité des processus, pouvant aller jusqu'à la suspension des services et de l'accès au CIPC et aux systèmes connexes administrés par la GRC.

Approved August 4, 2010 / Approuvé le 4 août, 2010



Vic Toews, P.C., Q.C., M.P.

MINISTERIAL DIRECTIVE RELEASE OF CRIMINAL RECORD INFORMATION BY THE ROYAL CANADIAN MOUNTED POLICE

This directive replaces all previous Ministerial Directives respecting the use and disclosure of Criminal Record Information, and any such directive is hereby revoked.

GENERAL

Criminal Record Information means criminal records, fingerprints, photographs, and related information maintained in the RCMP National Repository of Criminal Records. Information for vulnerable sector purposes also means pardoned sexual offence convictions maintained in the RCMP National Repository of Criminal Records.

This information is used by domestic and foreign law enforcement and investigative agencies of federal/provincial/territorial/state and municipal governments, departments of the criminal justice systems and the courts, in the administration or enforcement of the law and in the detection, prevention or suppression of crime generally. It is also used by federal / provincial/ territorial/ municipal agencies for security and reliability screening and by the Canadian Security Intelligence Service for the purposes of investigating threats to the security of Canada and the preparation of security assessments. These records may be made available as specified in this document.

It is anticipated that the components of this directive, including confirmation of a criminal record and the release of criminal record convictions by police of local jurisdiction, as well as the improper use or dissemination of criminal record information, will remain in effect until the RCMP criminal records system is fully automated and fingerprints are required for all criminal record and vulnerable sector verifications. At that point, a new Ministerial Directive will be issued to that effect.

REFERENCES

- a) *Identification of Criminals Act*
- b) *Criminal Records Act*
- c) *Youth Criminal Justice Act*
- d) *Privacy Act*
- e) *Canadian Security Intelligence Service Act*
- f) *Criminal Code of Canada*
- g) *Security Policy of the Government of Canada*
- h) *RCMP Administrative Manual*
- i) *CPIC Reference Manual*

POLICY WITH RESPECT TO DISCLOSURE OF CRIMINAL RECORDS

Criminal Record Information may be released to the following:

1. Canadian police services, crown prosecutors and enforcement/ investigative bodies of federal or provincial government departments; and on a reciprocal basis only, foreign police forces, prosecutors and enforcement/ investigative bodies of government departments; for use in connection with their official duties and responsibilities in relation to the enforcement or administration of the law;
2. Insurance Crime Prevention Bureaux for use such as assisting Canadian police services in the investigation of arson;
3. Research groups conducting studies which are related to the execution or administration of the law, including evaluation of treatment or correctional programs, when the research is being conducted by or on behalf of a Canadian police service, a provincial, territorial or federal correctional or parole service, a provincial, territorial or federal Attorney General or Solicitor General or minister responsible for Justice, corrections or policing;
4. Canadian parole and probation agencies; and on a reciprocal basis only, foreign parole and probation agencies; for use in connection with their official duties and responsibilities in relation to the execution or administration of the law;
5. Canadian correctional services; and on a reciprocal basis only, foreign correctional services; for purposes of prevention of crime, preserving security of the institution and custodial requirements;
6. Departmental Security Officers of federal/provincial/territorial Departments, Crown Corporations and other federal/provincial/territorial agencies with respect to applicants for employment and employees in positions where they will have access to classified information or who by the nature of their duties are required to be checked for reliability;
7. Federal, provincial, territorial, and municipal agencies for the purposes of criminal record screening required by legislation;
8. Individuals who are entitled to copies of their own records under the *Privacy Act* and individuals who request their records for purposes of obtaining paid or volunteer positions, visas, foreign work permits, border-crossing cards, other documents for immigration, foreign travel, entry into Canada, other situations where criminality screening is required, or for humanitarian reasons;
9. Private companies or organizations for the purposes of employment or volunteer screening when the disclosure has been authorized by the individual being screened;

10. Police agencies and authorized bodies, as determined by provincial and territorial governments, for the purposes of screening related to involvement in the vulnerable sector, and;
11. Those agencies or persons authorized to receive criminal records related to young persons.

REQUIREMENT FOR FINGERPRINTS

Fingerprints will be required for positive identification before criminal records are disclosed EXCEPT that this requirement may be waived when information or criminal records are requested for:

- a) Use in the investigation of offences or other law enforcement purposes, custodial responsibilities or the administration of justice;
- b) Prosecutions;
- c) Crime prevention purposes specific to screening visitors to correctional institutions, screening persons having contact with parolees, screening persons involved with the security of internationally protected persons or involved in security at major public events;
- d) The preparation of security assessments by the Canadian Security Intelligence Service;
- e) Parole purposes when it is not possible to obtain fingerprints of the parole applicant or when the parole officer knows the individual and has his/her FPS number;
- f) Probation and pre-sentence purposes when it is not possible to obtain fingerprints or when the probation officer knows the individual and has his/her FPS number;
- g) Research purposes, or;
- h) Purposes authorized by the *Youth Criminal Justice Act* when it is not possible to obtain fingerprints.

Reporting with respect to Criminal Records

The RCMP is to develop and implement procedures which will provide two forms of reports with respect to an applicant's criminal history:

1. Confirmation of a Criminal Record

Confirmation of a Criminal Record is primarily intended to permit businesses and potential employers to determine whether an applicant has a criminal record so as to support hiring decisions.

- This report may be provided by a police service:
 - When the police service has confirmed the identity of the applicant in accordance with standards set by the RCMP, and;
 - When the police service obtains from the applicant a declaration of criminal record in a form specified by the RCMP.
- This report will confirm whether or not a criminal record declared by an applicant appears to match a registered criminal record in the RCMP National Repository of Criminal Records.
- The report should clearly state that the confirmation does not deal with records relating to 'young persons' pursuant to the *Youth Criminal Justice Act* or the existence of an offence for which a pardon has been granted.

Where a Confirmation of a Criminal Record has been sought by an applicant, a police service of local jurisdiction where the applicant resides may release to the applicant a report, in a form to be established by the RCMP, of the applicant's adult convictions and associated criminal record information from the RCMP National Repository of Criminal Records.

2. Vulnerable Sector Verification

This report is primarily intended to assist organizations in screening applicants for positions of authority or trust relative to children or other vulnerable persons.

A Vulnerable Sector Verification is a query of:

- the RCMP National Repository of Criminal Records, including pardoned criminal files associated with sexually based criminal offences;
- Canadian Police Information Centre Intelligence and Investigative databanks, and;
- police service records management systems where the applicant has resided.

The organizations that will be relying upon this report provide services involving young people and other vulnerable populations. As a result, accuracy of the report is a paramount concern. The RCMP should, bearing in mind the importance of the accuracy of the report, establish processes and standards which ensure the accuracy of the applicant's identity and ensure that the report accurately reflects the applicant's history of sexual offence convictions and/or pardons (if any).

Where a Vulnerable Sector Verification report has been sought by an organization, and the identity of an applicant for a vulnerable sector position has been confirmed to the standards established by the RCMP, the police service of local jurisdiction where the applicant resides or authorized body as described in the *Criminal Records Act* may release the results, in accordance with federal laws, in a form to be established by the RCMP, that confirms that:

- 1) the applicant has been convicted of criminal offences, as listed, with specific reference and identification of any sexual offences and/or pardoned sexual offences;
- 2) the applicant has no convictions with respect to sexual offences or otherwise, registered in the Criminal Record Repository; or
- 3) it is not possible to confirm, through a criminal records check, whether the applicant has been convicted of criminal offences including any sexual offences.

General

In developing the procedures to permit the promulgation of these reports it must be remembered that improper disclosure of criminal records, or disclosure of records of absolute or conditional discharges under the *Criminal Code* and/or non-convictions may have an adverse effect upon many aspects of an individual's life. Records of 'young persons' can only be disclosed in accordance with the provisions of the *Youth Criminal Justice Act*.

Policies and practices should be developed to ensure that standards for disclosure and accuracy of these reports and access to criminal records and database information are maintained and that improper use or disclosure of information is not permitted. The RCMP should take steps, up to and including suspension of services and access to CPIC and related systems administered by the RCMP, as are necessary to protect the integrity of the process.

MINISTERIAL DIRECTIVE RELEASE OF CRIMINAL RECORD INFORMATION BY THE ROYAL CANADIAN MOUNTED POLICE

This directive cancels any existing Ministerial directives respecting the use and disclosure of Criminal Record Information.

GENERAL

For the purpose of this directive, Criminal Record Information means criminal records, fingerprints, photographs, and related information maintained in the RCMP National Repository of Criminal Records.

This information is used by domestic and foreign law enforcement and investigative agencies of federal/provincial/territorial/state and municipal governments, departments of the criminal justice systems and the courts, in the administration or enforcement of the law and in the detection, prevention or suppression of crime generally.

It is also used by the federal/provincial/territorial/municipal agencies for security and reliability screening and by the Canadian Security Intelligence Service for the purposes of investigating threats to the security of Canada and the preparation of security assessments.

These records may be made available as specified in this document.

REFERENCES

- a) Identification of Criminals Act
- b) Criminal Records Act
- c) Youth Criminal Justice Act
- d) Privacy Act
- e) Canadian Security Intelligence Service Act
- f) Criminal Code
- g) Security Policy of the Government of Canada
- h) RCMP Administrative Manual

DEFINITIONS

RCMP National Repository of Criminal Records

Canada's repository of criminal records relating to individuals that have been charged with indictable and/or hybrid offences. Since the *Identification of Criminals Act* only allows the taking of fingerprints in relation to indictable or hybrid offences, the RCMP's National Repository of Criminal Records is fingerprint-based and only contains information relating to these two categories of offences. Summary offences are included in the National Repository if submitted to the RCMP as part of an occurrence involving an indictable or hybrid offence. Note: With the exception of "young person" indictable or hybrid offence convictions, police agencies are not required by law to report offences to the RCMP. A search of local police records may reveal criminal record information that has not been reported to the RCMP.

Comment [P1]: The revised definitions are very comprehensive and easy to understand. The break-up of the checks and the results of the checks is also very well laid out.

Canadian Police Information Centre (CPIC)

A computerized information system providing Canadian law enforcement agencies with information on crimes and criminals. Electronically accessed by authorized agencies based on name and date-of-birth queries.

Civil Screening

In support of screening an individual for reliability/security purposes, Civil Screening involves a name-based verification or fingerprint-based verification (where required) of an individual's registered criminal record in the RCMP National Repository of Criminal Records. Verification is completed for non-criminal purposes, including employment, adoption, volunteer work, foreign travel and legal name changes. Verification may also be completed for Vulnerable Sector purposes (where authorized), which would include verification of any sexually-based offences for which the individual received a pardon.

Comment [P2]: Question: A) Does Civil Screening involve the screening of police records? B) Who would receive Civil Screening? C) What is the difference between Civil Screening and a Background Check?

Types of Criminal Record Verifications

Name-based Criminal Record Verification

A query, based on name and date-of-birth, of active criminal files in the RCMP National Repository of Criminal Records. Used to determine the possible existence of a criminal record.

Fingerprint-based Criminal Record Verification – A fingerprint-based search of active criminal files in the RCMP National Repository of Criminal Records. Produces a summary of an individual's offence convictions and non-convictions (where authorized) that are releasable in accordance with federal laws.

Types of Vulnerable Sector Verifications

Name-based Vulnerable Sector Verification

A query, based on name and date-of-birth, of active criminal files in the RCMP National Repository of Criminal Records, **and** pardoned criminal files associated to sexually-based offences. Used to determine the possible existence of a criminal record **and** a sexual offence conviction for which an individual has received a pardon. A Fingerprint-based Vulnerable Sector Verification is required for positive identification if a name-based search determines the possible existence of a sexual offence conviction for which the individual received a pardon.

Fingerprint-based Vulnerable Sector Verification - A fingerprint-based search of active criminal files in the RCMP's National Repository of Criminal Records, **and** pardoned criminal files associated to sexually-based offences. Used to establish the existence of a criminal record **and** a sexual offence conviction for which an individual has received a pardon. Produces a summary of an individual's offence convictions, non-convictions (where authorized) and sexual offence convictions for which the individual has received a pardon (where authorized) that are releasable in accordance with federal laws. The RCMP requires approval from the Minister of Public Safety to disclose information regarding pardoned sexual offences to a police service, and a police service requires written consent from the individual to disclose pardoned sexual offences to the requesting organization, pursuant to the *Criminal Records Act*.

Comprehensive Vulnerable Sector Verification

In addition to a Name-based Vulnerable Sector Verification or Fingerprint-based Vulnerable Sector Verification (where required), a comprehensive Vulnerable Sector Verification would include a query, based on name and date-of-birth, of the CPIC Intelligence and Investigative databanks and a local police agency's records management system. A query of local police records is commonly referred to as a Police Information Check or a local indices check. It must be completed by the local police of jurisdiction where the individual resides. The results of all of the queries would demonstrate a comprehensive Vulnerable Sector Verification.

Comment [P3] Question: Is there a similar "comprehensive" check (that includes local indices) for criminal background checks?

Criminal Record Products

Certified Criminal Record Product

A summary of an individual's offence convictions and non-convictions (where authorized) that are releasable in accordance with federal laws. Based on the results of a Fingerprint-based Criminal Record Verification.

Certified Vulnerable Sector Product

A summary of an individual's offence convictions, non-convictions and sexual offence convictions for which the individual has received a pardon (where authorized) that are releasable in accordance with federal laws. Pursuant to the *Criminal Records Act*, the product applies to individuals that intend to work and/or volunteer with Vulnerable Person(s). Based on the results of a Fingerprint-based Vulnerable Sector Verification.

POLICY

Criminal Record Information may be released to the following:

1. Canadian police forces, crown prosecutors and enforcement/ investigative bodies of federal or provincial government departments; and on a reciprocal basis only, foreign police forces, prosecutors and enforcement/ investigative bodies of government departments; for use in connection with their official duties and responsibilities in relation to the enforcement or administration of the Law;
2. Insurance Crime Prevention Bureaux for use such as assisting Canadian Police Forces in the investigation of arson;
3. Research groups conducting studies which are related to the execution or administration of the law, including evaluation of treatment or correctional programs, when the research is being conducted by or on behalf of a Canadian Police Force, a provincial or federal correctional or parole service, a provincial Attorney or Solicitor General, a federal/provincial/territorial Minister of Justice or the Solicitor General of Canada;
4. Canadian parole and probation agencies; and on a reciprocal basis only, foreign parole and probation agencies; for use in connection with their official duties and responsibilities in relation to the execution or administration of the law;

5. Canadian correctional services; and on a reciprocal basis only, foreign correctional services; for purposes of prevention of crime, preserving security of the institution and custodial requirements;
6. Departmental Security Officers of federal/provincial/territorial Departments, Crown Corporations and other federal/provincial/territorial agencies with respect to applicants for employment and employees in positions where they will have access to classified information or who by the nature of their duties are required to be checked for reliability;
7. Federal, provincial, territorial, and municipal agencies for the purposes of criminal record screening required by legislation;
8. Individuals who are entitled to copies of their own records under the Privacy Act and individuals who request their records for purposes of obtaining paid or volunteer positions, visas, foreign work permits, border-crossing cards, other documents for immigration, foreign travel, entry into Canada, other situations where criminality screening is required, or for humanitarian reasons;
9. Private companies or organizations for the purposes of employment or volunteer screening when the disclosure has been authorized by the individual being screened;
10. Police agencies and authorized bodies, as determined by provincial and territorial governments, for the purposes of screening related to involvement in the vulnerable sector; and
11. Those agencies or persons authorized to receive criminal records related to young persons.

Comment [P4] Question: Could this imply that a third party could use information for other purposes if the individual consents? Would this conflict with any other...

REQUIREMENT FOR FINGERPRINTS

Fingerprints will be required for positive identification before criminal records are disclosed EXCEPT that this requirement may be waived when information or criminal records are requested for:

- a) Use in the investigation of offences or other law enforcement purposes, custodial responsibilities or the administration of justice;
- b) Prosecutions;
- c) Crime prevention purposes specific to screening visitors to correctional institutions, screening persons having contact with parolees, screening persons involved with the security of internationally protected persons or involved in security at major public events;
- d) The preparation of security assessments by the Canadian Security Intelligence Service;

Comment [P5] Question: What is the definition of custodial?

- e) Parole purposes when it is not possible to obtain fingerprints of the parole applicant or when the parole officer knows the individual and has his/her FPS number;
- f) Probation and pre-sentence purposes when it is not possible to obtain fingerprints or when the probation officer knows the individual and has his/her FPS number;
- g) Research purposes; or
- h) Purposes authorized by the Youth Criminal Justice Act when it is not possible to obtain fingerprints.

CONFIRMATION OF A CRIMINAL RECORD and the RELEASE OF CRIMINAL RECORD CONVICTIONS BY POLICE OF JURISDICTION may be **modified** by Public Safety Canada based on any changes to **public safety requirements** for Civil Screening purposes.

CONFIRMATION OF A CRIMINAL RECORD

A police service may confirm that a criminal record declared by an individual residing in its jurisdiction matches to a registered criminal record maintained in the RCMP National Repository of Criminal Records.

CONFIRMATION OF A CRIMINAL RECORD does not apply to: civil screening for positions in the Vulnerable Sector when an individual may have possible sexual offence convictions in the schedule of the *Criminal Records Act* for which the individual has received a pardon; or for records only relating to "young persons" pursuant to the *Youth Criminal Justice Act*.

In instances where **CONFIRMATION OF A CRIMINAL RECORD** conflicts with personnel security standards for government employment, the personnel security standards shall take precedence.

Preconditions for CONFIRMATION OF A CRIMINAL RECORD:

- 1) Identity Verification and Informed Consent requirements have been fulfilled, pursuant to RCMP policy requirements;
- 2) An individual declares criminal record information, pursuant to RCMP policy requirements;
- 3) The police service of jurisdiction is satisfied that the criminal record information declared by the individual matches to a registered criminal record maintained in the RCMP National Repository of Criminal Records.

Comment [P6] ... What does this involve?
Comment [P7] ... If there are more than one person with a similar record, how does this protect public safety?

RELEASE OF CRIMINAL RECORD CONVICTIONS BY POLICE OF JURISDICTION

RELEASE OF CRIMINAL RECORD CONVICTIONS BY POLICE OF JURISDICTION does not apply to civil screening for positions in the Vulnerable Sector when an individual may have possible sexual offence convictions in the schedule of the *Criminal Records Act* for which the individual has received a pardon; or for records only relating to "young persons" pursuant to the *Youth Criminal Justice Act*.

In addition to **CONFIRMATION OF A CRIMINAL RECORD**, a police service may also release criminal record information to an individual, providing that the following conditions are met:

- 1) The police service of jurisdiction where the individual resides confirms the identity of the individual;
- 2) The police service ensures that all preconditions for **CONFIRMATION OF A CRIMINAL RECORD** are satisfied;
- 3) The police service only releases adult convictions and associated criminal record convictions from the RCMP National Repository of Criminal Records, in accordance with federal laws;
- 4) The police service releases criminal record information maintained by the RCMP on a document that bears the police service's insignia, but no CPIC markings. The police service may not release a printout of the CPIC search results;
- 5) The police service clearly identifies the following caveats on any document that contains criminal record information from the RCMP National Repository of Criminal Records:
 - a) Document does not constitute a *Certified Criminal Record* by the RCMP;
 - b) Document may not contain all criminal record convictions;
 - c) A *Certified Criminal Record* can only be issued based on the submission of fingerprints to the RCMP National Repository of Criminal Records.
- 6) The police service of jurisdiction provides any document containing criminal record information from the RCMP National Repository of Criminal Records directly to the individual only.

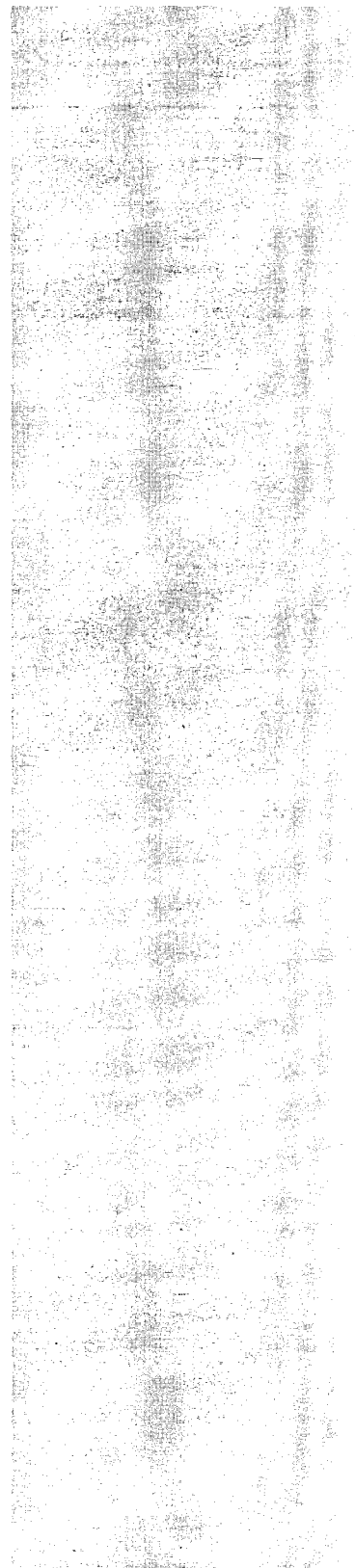
IMPROPER USE OR DISSEMINATION OF CRIMINAL RECORD INFORMATION

The disclosure of criminal records, which contain only absolute and conditional discharges under the *Criminal Code* and/or non-convictions, in certain circumstances may have adverse consequences on an individual's reputation, employment, mobility or access to services. Accordingly, caution must be exercised when disclosing these records in connection with non-criminal inquiries, especially border crossings. It must also be remembered that records of

YOUNG PERSONS can only be disclosed in accordance with the provisions of the Youth Criminal Justice Act.

Where there is an indication that an agency referred to in this document has improperly used or disseminated Criminal Record Information or has failed to purge or return such information when requested to do so, enquiries will be conducted and where warranted, steps shall be taken to have the situation corrected.

Failure to comply with the intent of this directive by any of the agencies may result in the modification, suspension or cancellation of services of access to the CPIC and related systems provided by the RCMP.



TRÈS SECRET

INSTRUCTIONS DU MINISTRE AU DIRECTEUR DU SERVICE
CANADIEN DU RENSEIGNEMENT DE SÉCURITÉ :
PRIORITÉS EN MATIÈRE DE RENSEIGNEMENT POUR 2009-2010

Conformément au paragraphe 6(2) de la *Loi sur le Service canadien du renseignement de sécurité (SCRS)*, les présentes instructions du ministre au directeur du SCRS énoncent les priorités en matière de collecte de renseignement pour l'exercice 2009-2010.

PRIORITÉS EN MATIÈRE DE RENSEIGNEMENT

Pages numbered 2 to 4, 7 and 8 are exempted in their entirety.

TRÈS SECRET

RAPPORT AU MINISTRE

Bien que le SCRS informe régulièrement le gouvernement du Canada des menaces à la sécurité nationale, le directeur doit, dans les plus brefs délais, signaler au ministre de la Sécurité publique toute menace importante pour la sécurité du Canada ou tout risque de controverse publique associé au mandat du Service.

TOP SECRET

**MINISTERIAL DIRECTION TO THE DIRECTOR,
CANADIAN SECURITY INTELLIGENCE SERVICE:
INTELLIGENCE PRIORITIES FOR 2009-2010**

This Ministerial Direction provides guidance to the Director of the Canadian Security Intelligence Service (CSIS), pursuant to subsection 6(2) of the *CSIS Act*, on the Intelligence Priorities for fiscal year 2009-2010.

INTELLIGENCE PRIORITIES

TOP SECRET

REPORTING TO THE MINISTER

Notwithstanding that CSIS advises the Government on an ongoing basis of threats to the security of Canada, the Director should report to the Minister of Public Safety, in a timely manner, on any significant risk to the security of Canada or potential for public controversy related to the Service's mandate.

Minister of Public Safety



Ministre de la Sécurité publique

Ottawa, Canada K1A 0P8

DEC 07 2010

BY HAND

UNCLASSIFIED

Mr. Richard B. Fadden
Director
Canadian Security Intelligence Service
1941 Ogilvie Road
Ottawa, Ontario K1J 1B7

Dear Mr. Fadden:

The first and foremost responsibility of the state and its government is protecting its citizens. In the current threat environment, the number one national security priority of the Government of Canada has been, and will remain for the foreseeable future, the fight against terrorism. In this context, it is critical that information be shared quickly and widely among those with the mandate and responsibility to disrupt serious threats before they materialize.

The Government of Canada relies on the Canadian Security Intelligence Service (CSIS) to provide security intelligence to various federal partners, and other key stakeholders such as provincial and municipal authorities, in order to assist with protecting national security and public safety. The Service is expected to work in unique circumstances, and occasionally with international agencies that do not respect Canada's commitment to human rights. CSIS must nevertheless always ensure that its actions do not appear to condone the torture or mistreatment of any individual, and that its interactions with foreign agencies accord with this principle.

I wish to reiterate my direction to the Service, as expressed to you verbally following my appointment as Minister of Public Safety, regarding the handling of intelligence received from or given to foreign agencies. This letter expands on the guidance contained in the Ministerial Direction to CSIS on "Information Sharing with Foreign Agencies" of 14 May 2009, which states that CSIS must not knowingly rely upon information which is derived from torture, and have in place reasonable and appropriate measures to identify information that is likely to have been derived from the use of torture.

In exceptional circumstances where there exists a threat to human life or public safety, urgent operational imperatives may require CSIS to discharge its responsibility to share the most complete information available at the time with

Canada

000302

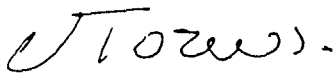
UNCLASSIFIED

relevant authorities, including information based on intelligence provided by foreign agencies that may have been derived from the use of torture or mistreatment. In such rare circumstances, it is understood that it may not always be possible to determine how a foreign agency obtained the information that may be relevant to addressing a threat. It is also understood that ignoring such information solely because of its source would represent an unacceptable risk to public safety.

Therefore, in situations where a serious risk to public safety exists, and where lives may be at stake, I expect and thus direct CSIS to make the protection of life and property its overriding priority, and share the necessary information – properly described and qualified – with appropriate authorities. The final decision to investigate and analyze information that may have been obtained via methods condemned by the Government of Canada is to be made by the CSIS Director, or the Deputy Director Operations; this decision shall be made only in accordance with Canada's legal obligations. Consistent with the 2008 Ministerial Direction to CSIS on "Operations," I further expect to be notified of any such decision as appropriate.

As you are aware, my officials in Public Safety Canada are preparing a more comprehensive Ministerial Direction to guide CSIS' international information-sharing practices. Until such time as it is finalized and new direction is issued to the Service, I expect you to continue operating under the 2009 Ministerial Direction on Information Sharing with Foreign Agencies, and further guidance set out in this letter.

Yours sincerely,



Vic Toews, P.C., Q.C., M.P.

Minister of Public Safety



Ministre de la Sécurité publique

Ottawa, Canada K1A 0P8

UNCLASSIFIED

JUL 28 2011

Mr. Richard Fadden
Director
Canadian Security Intelligence Service
1941 Ogilvie Road
Gloucester, Ontario K1J 1B7

Dear Mr. Fadden,

I previously indicated to you that officials in Public Safety Canada were preparing more comprehensive guidance on the Canadian Security Intelligence Service's (CSIS) information sharing practices.

Please find attached my new direction to CSIS on "Information Sharing with Foreign Entities."

This Ministerial Direction replaces the direction issued in 2009 on "Information Sharing with Foreign Agencies," as well as a copy of my letter to you dated December 7, 2010.

Yours sincerely,

A handwritten signature in black ink that reads "Vic Toews".

Vic Toews, P.C., Q.C., M.P.

Enclosure

Canada

UNCLASSIFIED

**Ministerial Direction to the Canadian Security Intelligence Service:
Information Sharing With Foreign Entities¹**

In the current threat environment, terrorism is the top national security priority of the Government of Canada. In this context, it is essential that the Canadian Security Intelligence Service (CSIS) is able to maintain strong relationships with foreign entities, and can share information with them on both a routine and an urgent basis. CSIS must also be able to quickly share information with other key domestic stakeholders, including federal departments and agencies that have the mandate and responsibility to respond to serious threats before they materialize.

The following Ministerial Direction provides guidance to the Director of CSIS, pursuant to section 6(2) of the *CSIS Act*, on information sharing with foreign entities.

1. Canada's Legal Obligations

Sharing information with foreign entities is an integral part of CSIS' mandate. It is also a formal obligation pursuant to Canada's adoption of various international resolutions and agreements.

The Government of Canada opposes in the strongest possible terms the mistreatment of any individual by any foreign entity for any purpose. The Government also has a duty to its own citizens and to its allies to prevent individuals engaging in threat related activities from causing harm, whether in Canada or in a foreign country.

The Government of Canada does not condone the use of torture or other unlawful methods in responding to terrorism and other threats to national security. The Government is committed to pursuing a principled and proportionate response to these threats, while promoting and upholding the values Canada seeks to protect.

Canada is a party to a number of international agreements that prohibit torture and other forms of cruel, inhuman, or degrading treatment or punishment. These include the *International Covenant on Civil and Political Rights* and the *Convention Against Torture and Other Cruel, Inhumane, or Degrading Treatment or Punishment (CAT)*. The *CAT* requires state parties to criminalize all instances of torture, and to take effective measures to prevent torture and other cruel, inhuman, or degrading treatment or punishment in any territory under their jurisdiction.

Torture is a criminal offence in Canada that has extraterritorial application. The *Criminal Code*'s provisions governing secondary liability also prohibit aiding and abetting the commission of torture, counselling the commission of torture whether or not the torture is committed, conspiracy to commit torture, attempting to commit torture, and being an accessory after the fact to torture.

¹ This Direction would not change existing legal authorities for sharing information with foreign entities. Although the term, foreign entity, has not been formally defined, it primarily refers to foreign government agencies and militaries. The term may also refer to military coalitions, alliances, and international organizations.

UNCLASSIFIED

More broadly, section 7 of the *Canadian Charter of Rights and Freedoms* guarantees that “everyone has the right to life, liberty, and security of the person.” Section 12 of the *Charter* prohibits “any cruel and unusual treatment or punishment,” which Canadian courts have described as behaviour “so excessive as to outrage the standards of decency.” This behaviour includes torture and other cruel, inhuman, or degrading treatment or punishment.

2. Definitions

“Mistreatment” means torture or other cruel, inhuman, or degrading treatment or punishment.

“Substantial risk” is a personal, present, and foreseeable risk of mistreatment.

- In order to be “substantial,” the risk must be real and must be based on something more than mere theory or speculation.
- In most cases, the test of a substantial risk of mistreatment will be satisfied when it is more likely than not that there will be mistreatment. However, the “more likely than not” test should not be applied rigidly because in some cases, particularly where the risk is of severe harm, the “substantial risk” standard may be satisfied at a lower level of probability.

3. Information Sharing Principles

Sharing information with foreign entities is an integral part of CSIS’ mandate. It is also a formal obligation pursuant to Canada’s adoption of various international resolutions and agreements.

In sharing information, CSIS must act in a manner that complies with Canada’s laws and legal obligations. It is to avoid any complicity in mistreatment by foreign entities.

CSIS must assess and mitigate potential risks of sharing information in ways that are consistent with its unique role and responsibilities.

CSIS must also assess the accuracy and reliability of information received, and properly characterize this information in any further dissemination. It must have in place reasonable and appropriate measures to identify information that is likely to have been derived from mistreatment.

The approval level that CSIS requires in order to share information must be proportionate to the risk of mistreatment that may result: the greater the risk, the more senior the level of approval required.

CSIS also has a responsibility to keep the Minister of Public Safety generally informed about its information sharing practices.

UNCLASSIFIED

4. Decision Making Process When There Is A Substantial Risk of Mistreatment In Sharing Information

Except when there is a substantial risk, CSIS is responsible for establishing approval levels that are proportionate to the risks in sharing information with foreign entities. The following decision making process applies when there is a substantial risk of mistreatment of an individual.

When there is a substantial risk that sending information to, or soliciting information from, a foreign entity would result in the mistreatment of an individual, and it is unclear whether that risk can be mitigated through the use of caveats or assurances, the matter will be referred to the Director for decision.

In making his or her decision, the Director will normally consider the following information, all of which must be properly characterized in terms of its accuracy and reliability:

- the threat to Canada's national security or other interests, and the nature and imminence of that threat;
- the importance of sharing the information, having regard to Canada's national security or other interests;
- the status of the relationship with the foreign entity with which the information is to be shared, and an assessment of the human rights record of the foreign entity;
- the rationale for believing that there is a substantial risk that sharing the information would lead to the mistreatment of an individual;
- the proposed measures to mitigate the risk, and the likelihood that these measures will be successful (including, for example, the foreign entity's record in complying with past assurances, and the capacity of those government officials to fulfil the proposed assurance);
- the views of the Department of Foreign Affairs and International Trade (DFAIT); and
- the views of other departments and agencies, as appropriate, as well as any other relevant facts that may arise in the circumstances.

The Director may refer the decision whether or not to share information with the foreign entity to the Minister of Public Safety, in which case the Minister will be provided with the information described above.

The Director or Minister of Public Safety shall authorize the sharing of information with the foreign entity only in accordance with this Direction and with Canada's legal obligations.

5. Use Of Information That May Have Been Derived Through Mistreatment By Foreign Entities

As a general rule, CSIS is directed to not knowingly rely upon information derived through mistreatment by foreign entities.

UNCLASSIFIED

In exceptional circumstances, CSIS may need to share the most complete information in its possession, including information from foreign entities that was likely derived through mistreatment, in order to mitigate a serious threat of loss of life, injury, or substantial damage or destruction of property before it materializes. In such rare circumstances, ignoring such information solely because of its source would represent an unacceptable risk to public safety.

When there is a serious risk of loss of life, injury, or substantial damage or destruction of property, CSIS will make the protection of life and property its priority. If CSIS needs to share information that was likely derived through mistreatment with appropriate authorities in order to mitigate a serious threat, the matter will be referred to the Director. All decisions shall be made only in accordance with this Direction and with Canada's legal obligations.

CSIS will take all reasonable measures to reduce the risk that any action on its part might promote or condone the use of mistreatment. Measures will also be taken to ensure that the information which may have been derived through mistreatment is accurately described, and that its reliability is properly characterized. Caveats will be imposed on information shared with both domestic and foreign recipients to restrict their use of information, as appropriate.

6. Support

To help ensure a consistent understanding of the risks of sharing information with foreign entities, DFAIT will continue to make its country human rights reports available to the intelligence and law enforcement community.

NON CLASSIFIÉ

Instruction du ministre à l'intention du Service canadien du renseignement de sécurité sur l'échange d'information avec des organismes étrangers¹

Compte tenu des menaces actuelles, la lutte contre le terrorisme est la plus grande priorité du gouvernement du Canada en matière de sécurité nationale. Dans ce contexte, il est essentiel que le Service canadien du renseignement de sécurité (SCRS) puisse entretenir des relations solides avec les organismes étrangers et qu'il puisse échanger avec eux de l'information de manière courante ou urgente. Le SCRS doit également pouvoir échanger rapidement de l'information avec des intervenants clés au pays, y compris les ministères et organismes fédéraux qui ont pour mandat et responsabilité de combattre les menaces graves avant qu'elles ne se concrétisent.

La présente instruction du ministre, établit conformément au paragraphe 6(2) de la *Loi sur le SCRS*, apporte au directeur du SCRS des directives sur l'échange d'information avec des organismes étrangers.

1. Obligations juridiques du Canada

L'échange d'information avec des organismes étrangers fait partie intégrante du mandat du SCRS. Il s'agit également d'une obligation découlant de l'adoption par le Canada de diverses résolutions et ententes internationales.

Le gouvernement du Canada s'oppose catégoriquement à ce que de mauvais traitements soient infligés à quiconque par un organisme étranger, quel que soit le but visé. Il a également le devoir envers ses citoyens et ses alliés d'empêcher les individus qui participent à des activités représentant une menace de causer du tort au Canada ou à l'étranger.

Le gouvernement du Canada s'oppose à l'utilisation de la torture et d'autres méthodes illicites pour combattre le terrorisme et les autres menaces à la sécurité nationale. Il est déterminé à recourir à une intervention proportionnelle et fondée sur des principes pour faire face aux menaces, tout en défendant les valeurs que le Canada cherche à protéger.

Le Canada est partie à un certain nombre d'ententes internationales qui interdisent la torture et les autres formes de peines et de traitements cruels, inhumains ou dégradants. Il est par exemple partie au *Pacte international relatif aux droits civils et politiques* et à la *Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants*. Cette convention exige que les États parties criminalisent toutes les formes de torture et prennent des mesures concrètes pour empêcher que des actes de torture ou que des peines ou des traitements cruels, inhumains ou dégradants soient infligés dans tout territoire relevant de leur compétence.

Au Canada, la torture est une infraction pénale de portée extraterritoriale. Les dispositions sur la responsabilité subsidiaire du *Code criminel* interdisent également aux personnes d'aider ou

¹ Le Cadre ne change rien aux obligations juridiques existantes en matière d'échange d'information avec des entités étrangères. Le terme entité étrangère, même s'il n'est pas défini de manière officielle, désigne d'abord et avant tout les organismes et services militaires étrangers. Il peut aussi s'appliquer à des coalitions militaires, des alliances et des organisations internationales.

NON CLASSIFIE

d'encourager la commission d'un acte de torture, de conseiller la torture peu importe si un acte de torture est commis, de tenter ou de comploter de commettre un acte de torture ou d'être complice après le fait.

De façon plus générale, l'article 7 de la *Charte canadienne des droits et libertés* garantit que « chacun a droit à la vie, à la liberté et à la sécurité de sa personne ». L'article 12 de la Charte protège contre « tous traitements ou peines cruels et inusités », lesquels ont été définis par les tribunaux canadiens comme un comportement « excessif au point de ne pas être compatibles avec la dignité humaine », ce qui comprend la torture et les autres formes de peines ou de traitements cruels, inhumains ou dégradants.

2. Définitions

« Mauvais traitement » s'entend de la torture ou de tout autre peine ou traitement cruel, inhumain ou dégradant.

« Risque substantiel » signifie qu'une personne court un risque personnel, actuel et prévisible de subir des mauvais traitements.

- Pour être « substantiel », le risque doit être réel et ne pas être uniquement théorique ou spéculatif.
- Dans la plupart des cas, l'existence d'un risque substantiel est établie s'il est « plus probable qu'improbable » que des mauvais traitements soient infligés à la personne. Cependant, ce critère ne doit pas être appliqué de manière absolue puisqu'il est possible dans certains cas d'établir l'existence d'un « risque substantiel » à un niveau de probabilité inférieure, surtout si une personne risque de subir un préjudice grave.

3. Principes liés à l'échange d'information

L'échange d'information avec des organismes étrangers fait partie intégrante du mandat du SCRS. Il s'agit également d'une obligation découlant de l'adoption par le Canada de diverses résolutions et ententes internationales.

Lorsqu'il échange de l'information, le SCRS doit respecter les lois et les obligations juridiques du Canada. Il doit éviter également d'être complice de mauvais traitements infligés par des organismes étrangers.

Le SCRS doit évaluer et atténuer les risques qui pourraient être liés à l'échange d'information en tenant compte des responsabilités et rôles qui lui sont propres.

Le SCRS doit également évaluer l'exactitude et la fiabilité de l'information qu'il reçoit et qualifier adéquatement l'information avant de la transmettre à d'autres. Il doit avoir en place des mesures raisonnables et appropriées pour cerner l'information qui a probablement été obtenue à la suite de mauvais traitements.

NON CLASSIFIE

Le niveau d'approbation requis pour échanger de l'information doit être proportionnel au risque de mauvais traitements. Plus le risque est grand, plus le niveau d'approbation est élevé.

Le SCRS est tenu d'informer de manière générale le ministre de la Sécurité publique de ses pratiques en matière d'échange d'information.

4. Processus décisionnel lorsque l'échange d'information comporte un risque substantiel de mauvais traitements

Sauf dans les cas où il existe un risque substantiel, le SCRS détermine les niveaux d'approbation requis en fonction des risques liés à l'échange de l'information avec des organismes étrangers. Le présent processus décisionnel s'applique uniquement lorsqu'il existe un risque substantiel que des mauvais traitements soient infligés à une personne.

Si le fait de communiquer de l'information à un organisme étranger ou d'obtenir de l'information de celui-ci soulève un risque substantiel que des mauvais traitements soient infligés et s'il n'est pas certain que le risque peut être atténué en utilisant des restrictions ou en obtenant des garanties, la décision d'échanger de l'information doit être rendue par le directeur.

Dans sa décision, le directeur tient normalement compte des renseignements ci-dessous, qui doivent tous être accompagnés d'une mention précisant leur exactitude et fiabilité :

- la menace pour la sécurité nationale et les intérêts canadiens, ainsi que la nature et le caractère imminent de cette menace;
- l'importance de l'échange de l'information en ce qui concerne la protection de la sécurité nationale ou d'autres intérêts canadiens;
- la relation entre le Canada et l'organisme étranger visé, et une évaluation du bilan en matière de respect des droits de la personne de cet organisme;
- les raisons de croire que l'échange de l'information pose un risque substantiel que des mauvais traitements soient infligés à une personne;
- les mesures proposées pour atténuer le risque et la probabilité que ces mesures soient efficaces (par exemple, le respect par le passé des garanties offertes par l'organisme étranger et la capacité des représentants du gouvernement de s'en acquitter);
- les vues du ministère des Affaires étrangères et du Commerce international;
- les vues d'autres ministères et organismes, au besoin, et tout autre fait pertinent dans les circonstances.

Le directeur peut demander au ministre de la Sécurité publique de décider s'il y a lieu d'échanger de l'information avec l'organisme étranger. Le cas échéant, les renseignements énumérés précédemment sont communiqués au ministre.

Le directeur ou encore le ministre de la Sécurité publique autorise l'échange de l'information avec l'organisme étranger seulement si cela ne contrevient pas à la présente instruction et aux obligations juridiques du Canada.

NON CLASSIFIE

5. Utilisation de l'information ayant peut-être été obtenue à la suite de mauvais traitements infligés par des organismes étrangers

Règle générale, il est interdit au SCRS d'utiliser sciemment de l'information obtenue à la suite de mauvais traitements infligés des organismes étrangers.

Dans des circonstances exceptionnelles, le SCRS peut être appelé à communiquer toute l'information en sa possession, y compris celle qui provient d'un organisme étranger et qui a été vraisemblablement obtenue à la suite de mauvais traitements, afin d'atténuer une menace sérieuse pouvant entraîner des pertes de vie, des blessures, des dommages graves ou la destruction de biens, et l'empêcher de se concrétiser. Dans de telles rares circonstances, le fait de ne pas tenir compte de cette information seulement en raison de la source constitue un risque inacceptable pour la sécurité publique.

En cas de menace sérieuse pouvant entraîner des pertes de vie, des blessures, des dommages graves ou la destruction de biens, le SCRS accordera la priorité à la protection de la vie et des biens. Dans le cas où le SCRS doit échanger de l'information vraisemblablement obtenue à la suite de mauvais traitements avec les responsables autorisées pour atténuer une menace sérieuse, il incombe au directeur de prendre une décision à cet égard. D'ailleurs, toutes les décisions doivent respecter la présente instruction et les obligations juridiques du Canada.

Le SCRS prend des mesures raisonnables pour atténuer le risque que les mesures qu'il mettra en place aient pour effet de préconiser ou d'autoriser les mauvais traitements. Il doit également prendre des mesures pour décrire avec exactitude les informations obtenues à la suite de mauvais traitements et pour en caractériser la fiabilité. Le SCRS impose l'utilisation des restrictions en ce qui concerne à l'échange d'information avec des organismes canadiens ou étrangers afin d'en limiter l'utilisation, selon le cas.

6. Soutien

Pour assurer une compréhension uniforme des risques liés à l'échange d'information avec des organismes étrangers, le MAECI continuera de mettre à la disposition des organismes du renseignement et d'application de la loi ses rapports sur le respect des droits de la personne par les pays.

MINISTERIAL DIRECTION FOR OPERATIONS
Section 6(2) of the *CSIS Act*

The Government and the people of Canada expect a high level of performance by the Service in its discharge of responsibilities under the Canadian Security Intelligence Service Act (*CSIS Act*). It is also expected that the Service will perform its duties and functions with due regard for the rule of law and respect for the rights and liberties as guaranteed under the *Charter of Rights and Freedoms*.

Pursuant to section 6 of the *CSIS Act*, I have issued the following direction to assist the Service in meeting these expectations.

FUNDAMENTAL PRINCIPLES

The following four fundamental principles will serve to guide and inform all CSIS operations.

- The rule of law must be observed.
- The investigative means must be proportional to the gravity and imminence of the threat.
- The greater the risk associated with a particular activity, the higher the authority required for approval.
- With regard to the use of intrusive investigative techniques:
 - o The need for their use must be weighed against possible damage to civil liberties and to Canadian fundamental institutions, such as political, religious, post-secondary and media establishments.
 - o The least intrusive techniques must be used first, except in emergency situations or where less intrusive investigative techniques would not be proportionate to the gravity and imminence of the threat.
 - o The level of authority required for approving their use must be commensurate with their intrusiveness and with any risks associated to using them.

**Document Released Under the Access to
Information Act / Document divulgué en vertu
de la Loi sur l'accès à l'information.**

**Page 2 has been exempted entirely pursuant to
Section 15(1)(c)
of the *Access to Information Act***

000111

MINISTERIAL DIRECTION
SECRET

ANNEX A

GENERAL

The Service will focus its collection, analysis and advisory activities in accordance with the Direction on National Requirements or any other directions that may be issued.

The privacy of individuals will not be infringed unless and only to the extent that there are valid reasons to do so.

The Service will ensure adequate and consistent handling of information about Canadians when collecting, storing, sharing and disclosing information.

S. 15(1)

Document Released Under the Access to Information Act / Document divulgué en vertu de la Loi sur l'accès à l'information.

MINISTERIAL DIRECTION
SECRET

ANNEX B

HUMAN SOURCE PROGRAM

In carrying out its mandated activities, the Service obtains information and assistance from persons with whom the Service maintains a confidential relationship.

In addition to the fundamental principles established at the outset of this Direction, the Service shall use and manage its human sources in accordance with the following guidelines:

- The use of human sources will be reasonable and necessary to investigate activities authorized by the CSIS Act.
- Human sources will carry out their tasks on behalf of the Service without engaging in illegal activities.
- Human sources are to be centrally managed, so as to protect their personal safety and the security of the Service's operations.
- Human sources will be managed ethically and fairly. The Service will ensure that an informal dispute resolution mechanism is in place to address complaints from sources.

Document Released Under the Access to Information Act / Document divulgué en vertu de la Loi sur l'accès à l'information.

PS-4

S.15(4)

000113

MINISTERIAL DIRECTION
SECRET

Accountability

The Service will maintain a review system of active human source relationships to ensure compliance with the guidelines and principles enunciated in this direction and to assess their continuing suitability and relevance to the National Requirements of the Government of Canada and the duties and functions of the Service.

S-1500

Document Released Under the Access to Information Act / Document divulgué en vertu de la Loi sur l'accès à l'information.

MINISTERIAL DIRECTION
SECRET

ANNEX C

OPERATIONAL ACTIVITIES OUTSIDE CANADA

CSIS operational activities outside Canada will:

- hold potential benefit for Canada and its national interests;
 - be considered for their impact on Canadian foreign policy interests and objectives;
- and,

Operational assistance occurs when activities are undertaken by the Service on behalf of a requesting organization or vice versa.)

Document Released Under the Access to Information Act / Document divulgué en vertu de la Loi sur l'accès à l'information.

S.15(1)

PS - 6

MINISTERIAL DIRECTION
SECRET

ANNEX D

DOMESTIC AND FOREIGN ARRANGEMENTS

The Director will manage domestic and foreign arrangements subject to any conditions imposed by the Minister and include the status of the arrangements in the Annual Report.

Arrangements, whether in writing or otherwise, will clearly establish their purpose and obligations, including the application of privacy and access to information legislation; and indicate the means of periodic evaluation or audit, as well as the provisions for cancellation.

Foreign Arrangements

CSIS is the lead agency for liaising and cooperating with foreign security or intelligence organizations and international organizations of states on matters relating to threats to the security of Canada and security assessments as defined in the *CSIS Act*. The following provides more detailed guidelines in this regard:

Document Released Under the Access to Information Act / Document divulgué en vertu de la Loi sur l'accès à l'information.

S15

-7-

PS - 7

000116

**Pages 8-9 have been exempted entirely pursuant to
Section 15(1)
of the *Access to Information Act***

000117

000320

INSTRUCTIONS DU MINISTRE SUR LES OPÉRATIONS
Paragraphe 6(2) de la Loi sur le SCRS

Le gouvernement et la population du Canada s'attendent à ce que le Service assume consciencieusement les responsabilités qui lui sont confiées en vertu de la *Loi sur le Service canadien du renseignement de sécurité (Loi sur le SCRS)*. Ils s'attendent aussi à ce que le Service exerce ses fonctions en respectant le principe de la primauté du droit et les droits et libertés garantis aux Canadiens par la *Charte canadienne des droits et libertés*.

Les instructions suivantes, que je présente conformément à l'article 6 de la *Loi sur le SCRS*, visent à aider le Service à répondre à ces attentes.

PRINCIPES FONDAMENTAUX

Les quatre principes fondamentaux énoncés ci-après ont pour objet d'encadrer toutes les opérations du Service.

- La primauté du droit doit être respectée.
- Les méthodes d'enquête utilisées sont proportionnelles à la gravité et à l'imminence de la menace.
- Plus le risque associé à une activité donnée est grand, plus le niveau hiérarchique de la personne investie du pouvoir d'autoriser celle-ci est élevé.
- En ce qui concerne les méthodes d'enquête intrusives :
 - o l'utilisation de telles méthodes est évaluée au regard du tort qu'elles peuvent causer aux libertés civiles et aux secteurs névralgiques, notamment aux institutions politiques, religieuses et universitaires et aux médias;
 - o les méthodes d'enquête les moins intrusives sont utilisées avant toute autre, sauf en cas d'urgence ou lorsqu'elles ne sont pas proportionnelles à la gravité ou à l'imminence de la menace;
 - o plus la méthode d'enquête est intrusive et plus les risques sont élevés, plus le niveau hiérarchique de la personne investie du pouvoir d'en autoriser l'utilisation est élevé.

Document Released Under the Access to
 Information Act / Document divulgué en vertu
 de la Loi sur l'accès à l'information.

**Page 11 has been exempted entirely pursuant to
Section 15(1)(c)
of the *Access to Information Act***

000119

000322

INSTRUCTIONS DU MINISTRE
SECRET

ANNEXE A

GÉNÉRALITÉS

Le Service mène ses activités de collecte, d'analyse et de conseil conformément à l'Instruction sur les exigences nationales ou à toute autre instruction donnée.

Le Service ne porte pas atteinte à la vie privée des gens à moins d'avoir des raisons valables de le faire, et seulement dans de tels cas.

Le Service traite les informations sur les Canadiens qu'il recueille, conserve, partage et communique de façon appropriée et uniforme.

S.15(1)

Document Released Under the Access to Information Act / Document divulgué en vertu de la Loi sur l'accès à l'information.

INSTRUCTIONS DU MINISTRE
SECRET

ANNEXE B

PROGRAMME DES SOURCES HUMAINES

Dans l'exécution des activités prévues dans son mandat, le Service obtient des informations et de l'aide de personnes avec lesquelles il entretient des relations confidentielles.

Outre les principes fondamentaux énoncés précédemment, le Service recourt à des sources humaines et les gère conformément aux lignes directrices énoncées ci-après.

- Le recours à des sources humaines est raisonnable et nécessaire pour enquêter sur des activités visées par la *Loi sur le SCRS*.
- Les sources humaines s'acquittent des tâches que leur confie le Service sans mener d'activités illégales.
- La gestion des sources humaines est centralisée pour assurer leur sécurité personnelle et celle des opérations du Service.
- Les sources humaines sont gérées de façon équitable et conforme à l'éthique. Le Service mettra en place un mécanisme informel de règlement des différends pour répondre aux plaintes des sources.

Document Released Under the Access to Information Act / Document divulgué en vertu de la Loi sur l'accès à l'information.

S-154)

PS-13

INSTRUCTIONS DU MINISTRE
SECRET

Responsabilisation

Le Service maintient un système de vérification des relations avec les sources humaines actives pour s'assurer, d'une part, qu'elles respectent les lignes directrices et les principes énoncés dans les présentes instructions et déterminer, d'autre part, si elles sont toujours utiles, si elles répondent encore aux Exigences nationales du gouvernement du Canada et si elles s'inscrivent dans le cadre des fonctions du Service.

S.1566)

Document Released Under the Access to Information Act / Document divulgué en vertu de la Loi sur l'accès à l'information.

INSTRUCTIONS DU MINISTRE
SECRET

ANNEXE C

ACTIVITÉS OPÉRATIONNELLES À L'EXTÉRIEUR DU CANADA

Les activités opérationnelles du Service à l'extérieur du Canada doivent :

- pouvoir être profitables au Canada et à ses intérêts nationaux;
- être examinées du point de vue de leurs répercussions sur les intérêts et les objectifs du Canada relativement à sa politique étrangère;

L'aide opérationnelle consiste en des activités menées par le Service à la demande d'une organisation ou vice versa.

Document Released Under the Access to Information Act / Document divulgué en vertu de la Loi sur l'accès à l'information.

S.1566

PS-15

INSTRUCTIONS DU MINISTRE
SECRET

ANNEXE D

ENTENTES AVEC DES ORGANISMES CANADIENS ET ÉTRANGERS

Le directeur administre les ententes conclues avec les organismes canadiens et étrangers conformément aux conditions imposées par le ministre et fait le point sur ces ententes dans le rapport annuel.

L'objet des ententes, écrites ou autres, et les obligations afférentes sont clairement précisés, de même que le respect des lois applicables sur l'accès à l'information et la protection des renseignements personnels. Elles précisent également de quelle façon elles seront périodiquement évaluées et comprennent des dispositions sur leur annulation.

Ententes avec des organismes étrangers

Le Service est le principal organisme chargé d'assurer la liaison et de coopérer avec les services de sécurité ou de renseignements étrangers et les organisations internationales d'États pour ce qui concerne les questions liées aux menaces pour la sécurité du Canada et les évaluations de sécurité, conformément à la *Loi sur le SCRS*. Voici des lignes directrices plus détaillées à cet égard.

Document Released Under the Access to Information Act / Document divulgué en vertu de la Loi sur l'accès à l'information.

S.15

000124

PS-16

**Page 17 has been exempted entirely pursuant to
Section 15
of the *Access to Information Act***

000125

000328

**Pages 18-19 have been exempted entirely pursuant to
Section 15(1)
of the *Access to Information Act***

000126

000329

TOP SECRET CEO
2008 06 13

MINISTERIAL DIRECTION TO THE DIRECTOR,
CANADIAN SECURITY INTELLIGENCE SERVICE:
INTELLIGENCE PRIORITIES FOR 2008-2009

This Ministerial Direction provides guidance to the Director of the Canadian Security Intelligence Service (CSIS), pursuant to subsection 6(2) of the *CSIS Act*, on the Intelligence Priorities for fiscal year 2008-2009. These intelligence collection priorities shall remain in effect until renewed or replaced by the minister.

INTELLIGENCE PRIORITIES

Document Released Under the Access to Information Act / Document divulgué en vertu de la Loi sur l'accès à l'information.

S.15(1)
S.16(1)(b)
SECRET

000127

**Pages 21-22 have been exempted entirely pursuant to
Section 15(1)
of the *Access to Information Act***

000128

000331

UNCLASSIFIED

DATE:

File No.: 6900-3 / 20570 / 372530

MEMORANDUM FOR THE MINISTER

GUIDANCE RELATED TO DETAINEES

(Information Only)

ISSUE

Please find attached the United Kingdom's "Consolidated Guidance to Intelligence Officers and Service Personnel on the Detention and Interviewing of Detainees Overseas, and on the Passing and Receipt of Intelligence Relating to Detainees" (**Tab A**), as well as the "Note of Additional Information from the Secretary of State for Foreign and Commonwealth Affairs, the Home Secretary, and the Defence Secretary" (**Tab B**).

Should you require additional information, please do not hesitate to contact me or Lynda Clairmont, Assistant Deputy Minister, Emergency Management and National Security, at 990-4967.

William V. Baker

Enclosures (2)



Consolidated Guidance to Intelligence Officers and
Service Personnel on the Detention and Interviewing of
Detainees Overseas, and on the Passing and Receipt of
Intelligence Relating to Detainees

July 2010

Consolidated Guidance to Intelligence Officers and Service Personnel on the Detention and Interviewing of Detainees Overseas, and on the Passing and Receipt of Intelligence Relating to Detainees

1. This consolidated guidance sets out the principles, consistent with UK domestic law and international law obligations, which govern the interviewing of detainees overseas and the passing and receipt of intelligence relating to detainees. This guidance must be adhered to by officers of the UK's intelligence and security agencies, members of the UK's Armed Forces and employees of the Ministry of Defence ('personnel'). Personnel whose actions are consistent with this guidance have good reason to be confident that they will not risk personal liability in the future.
2. The security and intelligence agencies (the Agencies) do not have powers of detention either in the UK or overseas. UK Armed Forces may have a power to detain individuals in overseas operations depending on the circumstances of the operation. For MOD and UK military personnel, 'interviewing' includes tactical questioning, interrogation or debriefing.
3. To pursue their statutory functions, in particular to counter threats against the UK, the Agencies need to work with a range of overseas security and intelligence services ("liaison services") for the proper discharge of their functions.
4. UK Armed Forces may need to detain individuals and interview them in support of mission objectives (e.g. in order to understand threats to Armed Forces units). The Ministry of Defence (MOD) and UK Armed Forces may also need to work with liaison services for similar reasons, as well as military partners within a coalition where appropriate.

Policy regarding torture and cruel, inhuman or degrading treatment or punishment

5. Personnel will be aware of concerns about torture and cruel, inhuman or degrading treatment or punishment ("CIDT"). There is an absolute prohibition of torture in international law and a clear definition of what constitutes torture.

There is also an absolute prohibition on CIDT, but there is no agreed or exhaustive definition of what constitutes CIDT. Although it is legitimate to differentiate between torture and CIDT, individual instances of mistreatment that might in isolation constitute CIDT could amount to torture in circumstances in which e.g. they are prolonged, or coincide with other measures.

6. The United Kingdom Government's policy on such conduct is clear – we do not participate in, solicit, encourage or condone the use of torture or cruel, inhuman or degrading treatment or punishment for any purpose. In no circumstance will UK personnel ever take action amounting to torture or CIDT. We take allegations of torture and cruel, inhuman or degrading treatment or punishment very seriously: we investigate allegations against UK personnel; and we bring complaints to the attention of detaining authorities in other countries except where we believe that to do so might itself lead to unacceptable treatment of the detainee.

7. When we work with countries whose practice raises questions about their compliance with international legal obligations, we ensure that our co-operation accords with our own international and domestic obligations. We take great care to assess whether there is a risk that a detainee will be subjected to mistreatment and consider whether it is possible to mitigate any such risk. In circumstances where, despite efforts to mitigate the risk, a serious risk of torture at the hands of a third party remains, our presumption would be that we will not proceed. In the case of cruel, inhuman or degrading treatment or punishment, this will cover a wide spectrum of conduct and different considerations and legal principles may apply depending on the circumstances and facts of each case. Our aim is to

develop and promote human rights in those countries, consistent with the lead the UK has taken in international efforts to eradicate torture.

Policy regarding the involvement of UK personnel with detainees overseas in the custody of a liaison service

8. Some liaison services adopt a different approach and different standards to the UK in the way that they detain people and treat those they have detained. The extent to which they are prepared to take account of UK views on the way that they should behave varies, depending on such factors as the extent to which a relationship of trust exists with the UK, the extent to which there is international consensus on the issue, and the extent to which the liaison service believes it has a justification or need for taking a different approach. Personnel need to be aware of the tensions this can create and the need to manage them in a manner that is consistent with the policy described above in paragraph 6. Distinct from any personal liability, the circumstances covered by this guidance may engage the responsibility of the UK – with the potential for damage to its international reputation.

9. Before interviewing or seeking intelligence from detainees in the custody of a liaison service, or before soliciting an individual's detention by a liaison service, personnel must consider whether the detainee or individual may have been or may be subjected to unacceptable standards of detention or treatment. Personnel should consider attaching conditions to any information to be passed governing the use to which it may be put (where applicable) and/or to obtaining assurances from the relevant liaison service as to the standards that have been or will be applied in relation to that detainee or individual to minimise any perceived risk in this regard. Personnel should feel free to raise any concerns with senior responsible personnel nominated personally by the head of their Agency or Department ("senior personnel").

10. The table at paragraph 11 gives details of what officers should do when considering whether to proceed with action when there is a risk of torture or CIDT

occurring at the hands of third parties. Personnel should also refer, where available, to departmental views on the legal framework and practices of liaison services and authorities involved in detention in the country concerned. The Annex describes the issues which should be taken into account when considering whether standards of detention and treatment are acceptable but officers should consult senior personnel and/or legal advisers if they are in doubt.

11. Officers should use the following table (see next page) when considering whether to proceed with action when there is a risk of torture or CIDT occurring at the hands of a third party.

| Situation | Action |
|---|--|
| If you know or believe torture will take place | <ol style="list-style-type: none"> 1. You must not proceed and Ministers will need to be informed 2. You should raise concerns with liaison or detaining authority to try and prevent torture occurring unless in doing so you might make the situation worse. |
| In circumstances where you judge there is a lower than serious risk of CIDT taking place and standards of arrest and detention are lawful | You may proceed, keeping the situation under review. |
| In all other circumstances | <ol style="list-style-type: none"> 1. You must consult senior personnel. You must not proceed unless either: <ol style="list-style-type: none"> a) senior personnel and legal advisers conclude that there is no serious risk of torture or CIDT, or; b) you are able to effectively mitigate the risk of mistreatment to below the threshold of a serious risk through reliable caveats or assurances. 2. If neither of the two preceding approaches apply, Ministers must be consulted. <ul style="list-style-type: none"> • Ministers will need to be provided with full details, including the likelihood of torture or CIDT occurring, risks of inaction and causality of UK involvement. • Ministers will consider whether it is possible to mitigate the risk of torture or CIDT occurring through requesting and evaluating assurances on detainee treatment; whether the caveats placed on information/questions would be respected by the detaining liaison partner; whether UK involvement in the case, in whatever form, would increase or decrease the likelihood of torture or CIDT occurring. • Consulting Ministers does not imply that action will be authorised but it enables Ministers to look at the full complexities of the case and its legality. |

12. Where UK Armed Forces personnel are operating in a coalition and are under time sensitive military operational conditions, they may find themselves engaged in tactical questioning of detainees held by other nations with no opportunity to refer to senior personnel or Ministers for guidance on any concerns over standards of detention or treatment. If such a situation arises, UK Armed Forces personnel should continue to observe this guidance so far as it is practicable and report all the circumstances to senior personnel at the earliest opportunity.

Roles and responsibilities

13. Personnel must ensure that they comply with the guidance in this paper, together with any supporting legal, administrative and procedural material which may be relevant to its application in their specific Agency or Department. The Agencies, MOD and UK Armed Forces will ensure that personnel receive appropriate training. Agency, Departmental and Armed Forces' legal advisers will be able to advise on any legal issues that arise in particular cases. Crown servants should be aware that they are subject to English criminal law in respect of their actions in the course of their duties overseas.

14. Ministers must be consulted in line with the circumstances described in the table in paragraph 11. Ministers will consider all relevant facts in deciding whether an operation should proceed. Consulting Ministers does not imply that an operation will be authorised but it enables Ministers to look at the full complexities of the case and its legality.

15. Personnel should make themselves aware of departmental views on the legal framework and practices of States and liaison services with which UK personnel are engaged.

Procedures for interviewing detainees overseas in the custody of a liaison service

Prior to an interview

16. Before interviewing a detainee in the custody of a liaison service, personnel must consider the standards to which the detainee may have been or may be subject. Personnel should consider obtaining assurances from the relevant liaison service as to the standards that have been or will be applied to address any risk in this regard.

17. The table in paragraph 11 explains what personnel should do if there is a serious risk that a detainee has been or will be subject to unacceptable standards. Senior personnel must be consulted and further consideration should be given to obtaining assurances from the relevant liaison service as to the standards that have been or will be applied in relation to that detainee, before any action is taken. Where personnel believe that the assurances are reliable, they may continue with the proposed interview. If, despite any assurances obtained, personnel believe there is a serious risk of torture or cruel, inhuman or degrading treatment or punishment of an individual taking place, Ministers must be consulted.

18. The Agencies, MOD and UK Armed Forces cannot act as a consular authority in place of the FCO. Where the detainee is a UK national, the FCO must be briefed about the plans to interview the detainee.

During an interview

19. The essential requirements are that the detainee must be treated fairly, humanely, and with dignity and respect. Interviews must not involve torture or cruel, inhuman or degrading treatment or punishment. Again, the Annex describes the issues that need to be taken into account when considering the acceptability of standards.

20. Interviewing personnel must withdraw from the interview should they become aware of, or witness anything, which causes them to believe that there is a serious risk that the standards to which the particular detainee has been or will be subject are unacceptable, or if the detainee makes specific complaints in this respect that are considered credible by interviewing personnel. Interviewing personnel should also bring any complaints to the attention of the detaining authority, except where they believe that to do so might itself lead to unacceptable treatment of the detainee.

Reporting concerns and complaints

21. Where interviewing personnel have withdrawn from an interview, owing to the standards to which they believe the detainee has been or will be subject or following specific credible complaints by the detainee, senior personnel must be consulted and consideration should be given to obtaining assurances from the relevant liaison service as to the standards that have been or will be applied in relation to that detainee. Where personnel believe that the assurances are reliable, they may continue with the proposed interview. If, despite any assurances obtained, personnel believe there is a serious risk of torture or cruel, inhuman or degrading treatment or punishment of an individual taking place, Ministers must be notified. The Agencies, MOD and UK Armed Forces will then need to consider whether the concerns were such that this would have an impact on their engagement with that liaison service in relation to other detainees.

Recording the interview

22. Personnel conducting or witnessing an interview must complete a record of the interview (or, where more than one person conducts or witnesses an interview, one of them must produce an agreed record). This record must include any concerns about the standards to which the detainee may have been or may be subject, a statement on the physical and mental health of the detainee as observed by interviewing personnel, and a statement of any undertakings given to the detainee.

Seeking intelligence from a detainee in the custody of a foreign liaison service

23. Before feeding in questions to or otherwise seeking intelligence from a detainee in the custody of a liaison service, personnel must consider the standards to which the detainee may have been or may be subject. Personnel should consider attaching conditions to any information to be passed governing the use to which it may be put (where applicable) and/or to obtaining assurances from the relevant liaison service as to the standards that have been or will be applied in relation to that detainee to address any risk in this regard.

24. Where personnel believe there is a serious risk that a detainee has been or will be subject to unacceptable standards, senior personnel must be consulted and further consideration should be given to attaching conditions to any information to be passed governing the use to which it may be put (where applicable) and/or to obtaining assurances from the relevant liaison service as to the standards that have been or will be applied in relation to that detainee before any action is taken. Where personnel believe that the caveats attached will be observed, or believe that the assurances are reliable, they may continue with the proposed action, informing Ministers as appropriate. If, despite any conditions attached or assurances obtained, personnel believe there is a serious risk of torture or cruel, inhuman or degrading treatment or punishment of an individual taking place, Ministers must be consulted.

Soliciting detention by a foreign liaison service

25. Before soliciting an individual's detention by a liaison service, personnel must consider the standards to which the individual may be subject. Personnel should consider attaching conditions to any information to be passed governing the use to which it may be put (where applicable) and/or to obtaining assurances from the relevant liaison service as to the standards that will be applied in relation to that detainee to address any risk in this regard.

26. Where personnel believe there is a serious risk that an individual will be subject to unacceptable standards, senior personnel must be consulted and consideration should be given to attaching conditions to any information to be passed governing the use to which it may be put (where applicable) and/or to obtaining assurances from the relevant liaison service as to the standards that will be applied in relation to that individual, before any action is taken. Where personnel believe that the conditions attached will be observed and/or the assurances are reliable, they may continue with the proposed action, informing Ministers as appropriate. If, despite any conditions attached or assurances obtained, personnel believe there is a serious risk of torture or cruel, inhuman or degrading treatment or punishment of an individual taking place, Ministers must be consulted.

Receiving unsolicited information obtained from a detainee in the custody of a foreign liaison service

27. In most instances, liaison services do not disclose the sources of their intelligence and it will therefore not be apparent whether intelligence received has originated from a detainee or to what standards that detainee may have been subject. However, in the cases where personnel receive unsolicited intelligence from a liaison service that they know or believe has originated from a detainee, and which causes them to believe that the standards to which the detainee has been or will be subject are unacceptable, senior personnel must be informed. In all cases where senior personnel believe the concerns to be valid, Ministers must be notified of the concerns.

28. In such instances, Agencies, MOD or UK Armed Forces will consider whether action is required to avoid the liaison service believing that HMG's continued receipt of intelligence is an encouragement of the methods used to obtain it. Such action could, for example, include obtaining assurances, or demarches on intelligence and/or diplomatic channels. They will also consider whether the concerns were such that this would have an impact on engagement with that liaison service in relation to other detainees.

Procedures for interviewing detainees held overseas in UK custody

29. Individuals may be detained and questioned by UK forces overseas in accordance with the rules of engagement for the specific operation. Interviewing of detainees for intelligence purposes may only be undertaken by authorised personnel. All detainees held by UK Armed Forces must be treated humanely at all times, in accordance with international law and any UK law that may be applicable. Guidance on the handling of detainees is published by MOD in Joint Doctrine Publication 1-10¹. All UK facilities for the holding of detainees are subject to inspection by Provost Marshal Army, and by the International Committee of the Red Cross.

30. On occasion subject matter experts may be authorised to observe or join the questioning of detainees in the custody of UK or other forces. In such circumstances they must only be involved in the posing of specialist questions to the detainees which are specifically directed to their area of expertise. Any participation must always be conducted in the presence of authorised personnel, and the conduct of these experts during the questioning must comply with applicable UK law and international law at all times.

July 2010

¹ Available on line at www.mod.uk

Annex

STANDARDS OF ARREST, DETENTION AND TREATMENT (Paragraph 10)

This Annex is not exhaustive, nor is it descriptive of any legal term. However, when considering what might be unacceptable, personnel should take account of -

- a. The lawfulness of arrest (under local law).
- b. The lawfulness of detention (under local and international law) and access to due process.
Considerations here may include:
 - (i) 'incommunicado detention' (denial of access to family or legal representation, where this is incompatible with international law);
 - (ii) whether the detainee has been given the reasons for his arrest;
 - (iii) whether he will be brought before a judge and when that will occur;
 - (iv) whether he can challenge the lawfulness of his detention;
 - (v) the conditions of detention; and
 - (vi) whether he will receive a fair trial
- c. Torture.
An offence under UK law, torture is defined as a public official intentionally inflicting severe mental or physical pain or suffering in the performance or purported performance of his duties.
- d. Cruel, inhuman or degrading treatment or punishment.
Cruel, Inhuman or Degrading Treatment or Punishment (CIDT) is a term which is used in some international treaties but is not defined in UK law. In the context of this guidance, the UK Government considers that the following practices, *which is not an exhaustive list*, could constitute cruel, inhuman or degrading treatment or punishment:
 - (i) use of stress positions;
 - (ii) sleep deprivation;
 - (iii) methods of obscuring vision (except where these do not pose a risk to the detainee's physical or mental health and is necessary for security reasons during arrest or transit) and hooding;
 - (iv) physical abuse or punishment of any sort;

- (v) withdrawal of food, water or medical help;
- (vi) degrading treatment (sexual embarrassment, religious taunting etc); and
- (vii) deliberate use of 'white' or other noise.

In any case of doubt interviewing personnel should seek guidance from senior personnel who may take appropriate advice on whether any conduct may amount to torture or cruel, inhuman or degrading treatment or punishment.

Note on the text

A. It is envisaged that each organisation will continue to provide more detailed advice to their officers and personnel where such material is necessary to prescribe precisely how the principles and requirements set out in this guidance should operate within their individual organisational structure. Where helpful, this advice may include additional detail on the legal principles that govern the detention and treatment of detainees. It is envisaged that minor updates can be made to such material without revisiting this overarching guidance.

B. Where developments call for significant updates that affect the principles and requirements set out in this guidance, Ministers will be consulted on any changes and an updated version will be published



Cabinet Office

70 Whitehall

London

SW1A 2AS

Tel: 020 7276 1234

www.cabinetoffice.gov.uk



Note of Additional Information from the Secretary of State for
Foreign and Commonwealth Affairs, the Home Secretary, and
Defence Secretary:

Consolidated Guidance to Intelligence Officers and Service
Personnel on the Detention and Interviewing of Detainees
Overseas, and on the Passing and Receipt of Intelligence Relating
to Detainees

July 2010

Note of Additional Information:

Consolidated Guidance to Intelligence Officers and Service Personnel on the Detention and Interviewing of Detainees Overseas, and on the Passing and Receipt of Intelligence Relating to Detainees

From the Secretary of State for Foreign and Commonwealth Affairs, the Home Secretary, and Defence Secretary.

We currently face a diffuse, diverse and complex threat from international terrorism. This is not a threat we can counter on our own. In order to protect British citizens at home and abroad, including our troops in Afghanistan, it is absolutely essential that our security and intelligence services and armed forces are able to work with partners overseas to combat this threat.

This means working in challenging environments where we are not always in total control. This is the reality of combating the cross-border, international terrorist threat we live with today.

Nowhere is this reality more acute than in the case of detainees held abroad. Where the UK detains individuals itself, we can be confident of our standards and obligations. We cannot always have the same level of assurance with detainees held by third parties overseas. There have been concerns raised publicly about the nature of UK's involvement in such situations. That is why we are publishing today the Consolidated Guidance for intelligence officers and service personnel on the detention, interviewing and handling of intelligence in relation to detainees held overseas – putting into the public domain for the first time the policy framework within which we operate.

The UK stands firmly against the use of torture and cruel, inhuman or degrading treatment or punishment. We do not condone it, nor do we ask others to do it on our behalf. We, and in particular our personnel on the ground, work very hard to reduce the risks of detainees being subjected to mistreatment when they are held by other countries. But sometimes we cannot remove this risk completely. This raises difficult questions about how we should engage in those circumstances where the risk of mistreatment remains unclear, but the risk of inaction may have dire consequences.

The Consolidated Guidance makes clear the standards that our intelligence officers and service personnel must apply during the detention and interviewing of detainees held overseas. It provides a framework for dealing with the range of circumstances in which officers and personnel might have involvement with a detainee. It makes clear

that we act in compliance with our domestic and international legal obligations and our values as a nation.

There are occasions when officers and personnel are faced with difficult situations which are not within their control, when the information is often patchy and when, despite our efforts, a serious risk of mistreatment of a detainee at the hands of a third party remains. In such circumstances, the Guidance makes clear that personnel must consult Ministers and provide them with all the details of the particular case. It is right that responsibility in these cases lies with the democratically elected Government, and that ultimately it is Ministers who will make these judgements.

There is an absolute ban on and a clear internationally accepted definition of torture. There are no circumstances where we would authorise action in the knowledge or belief that torture would take place at the hands of a third party. If such a case were to arise we would do everything we could to prevent the torture occurring.

Where the situation is less clear personnel must provide Ministers with the full details of the case including the risks associated with acting and those we face if we do not proceed. Ministers may themselves attempt to mitigate the risk through personal intervention. In circumstances where despite efforts to mitigate the risk, a serious risk of torture remained, our presumption would be that we will not proceed.

The decision can be more complicated in relation to other forms of mistreatment. The reality is that the term cruel, inhuman or degrading treatment or punishment covers a spectrum of conduct. At the lower end some have argued that this can include certain conditions of detention that are commonplace in many of the countries with which we must work if we are to effectively protect British lives. While the UK is at the forefront of efforts to try to tackle unacceptable treatment of detainees we recognise, for example, that it is unrealistic to expect that prisons in these countries will be built to the standards we expect in this country.

In cases involving cruel, inhuman or degrading treatment or punishment, officers must follow the same mitigation process and may ultimately consult Ministers. Consulting Ministers does not imply that action will be authorised but allows us to look at the circumstances of the case and the different considerations and legal principles which may apply.

We will consider a number of factors, including but not limited to: the credible and mitigating steps that can be taken, if necessary through our personal involvement, to reduce the risk of mistreatment; the range of UK action proposed and whether it would increase or decrease the likelihood of mistreatment taking place; whether there is an overwhelming imperative for the UK to take action of some sort, e.g. to save life;

and, above all, whether there is a legal basis for taking action. These are extremely difficult decisions and it is right that Ministers ought to bear responsibility for them.

The standards and approach outlined in this Guidance are not new. They are consistent with the internal guidelines under which the security and intelligence services and our armed forces currently operate. However, the Guidance published today is unprecedented because it makes those standards public. We are confident that it will enable our security and intelligence agencies and our armed forces to continue their crucial work to protect UK national security while maintaining the high standards we expect of them.

July 2010

**Pages 353 to / à 355
are withheld pursuant to section
sont retenues en vertu de l'article**

69(1)(e)

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

**Pages 356 to / à 371
are withheld pursuant to section
sont retenues en vertu de l'article**

69(1)(a)

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

**Pages 372 to / à 380
are withheld pursuant to section
sont retenues en vertu de l'article**

69(1)(e)

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

**Pages 381 to / à 397
are withheld pursuant to section
sont retenues en vertu de l'article**

69(1)(a)

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

**Pages 398 to / à 413
are withheld pursuant to section
sont retenues en vertu de l'article**

69(1)(g) re (e)

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

**Pages 414 to / à 424
are withheld pursuant to section
sont retenues en vertu de l'article**

69(1)(g) re (e)

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

**Pages 425 to / à 426
are withheld pursuant to section
sont retenues en vertu de l'article**

69(1)(d)

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



Public Safety Sécurité publique
Canada Canada

Deputy Minister Sous-ministre

Ottawa, Canada
K1A 0P8

SECRET

DATE: **NOV 02 2010**

File No.: 6900-3 / 20753 / 374273

MEMORANDUM FOR THE MINISTER

**PROPOSED LETTER ON
INFORMATION SHARING WITH FOREIGN AGENCIES**

(Signature Required)

ISSUE

Proposed letter from you to the Director of the Canadian Security Intelligence Service (CSIS) (**Tab A**), which would expand on the 2009 Ministerial Direction (MD) on “Information sharing with Foreign Agencies.”

BACKGROUND

The MD on “Information sharing with Foreign Agencies” was developed in response to questions raised during the previous Minister of Public Safety’s appearance before the Standing Committee on Public Safety and Security (**Tab B**).

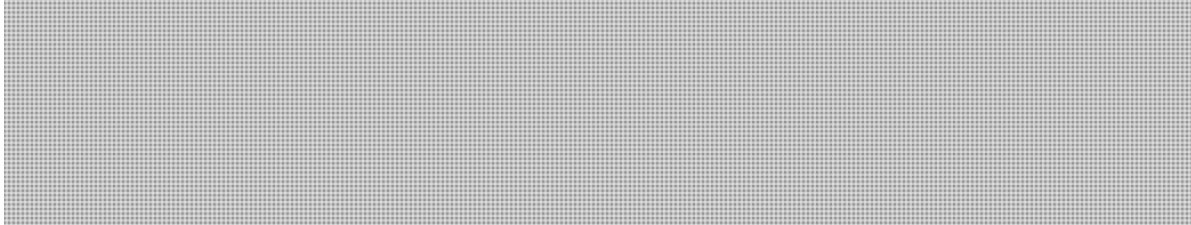
The MD on “Information sharing with Foreign Agencies” reiterates the Government of Canada’s opposition to the use of torture, and directs CSIS to “not knowingly rely upon information which is derived from the use of torture”; to “have in place reasonable and appropriate measures to identify information that is likely to have been derived from the use of torture”; and “to take all other reasonable measures to reduce the risk that any action on the part of the Service might promote or condone, or be seen to promote or condone the use of torture.”

CURRENT STATUS

The proposed letter to the Director of CSIS draws attention to the current security environment, in which the top priority of the Government of Canada is the fight against terrorism, and the concomitant need to share information quickly and widely to partners that are able to disrupt serious terrorist threats.

The letter concerns CSIS' information sharing practices where the information "is likely to have been derived from the use of torture or mistreatment." Specifically, the letter directs CSIS "to make the protection of life and property its overriding priority, and share the necessary information – properly described and qualified – with appropriate authorities." The Director or Deputy Director of Operations would make these decisions. They would be made in accordance with Canada's legal obligations. You would be notified of any such decision.

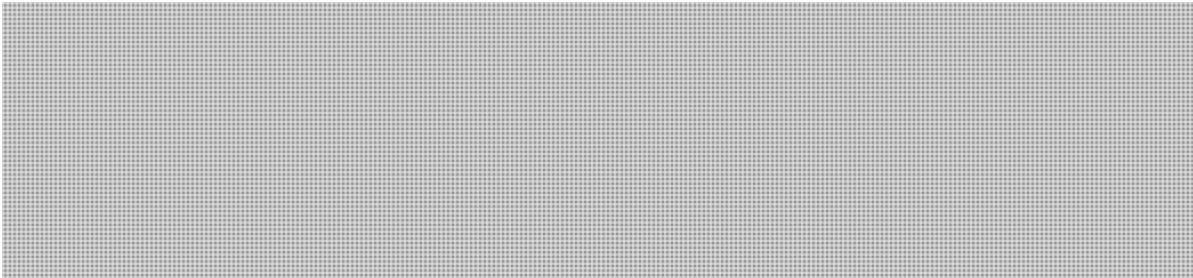
s.69(1)(g) re (e)



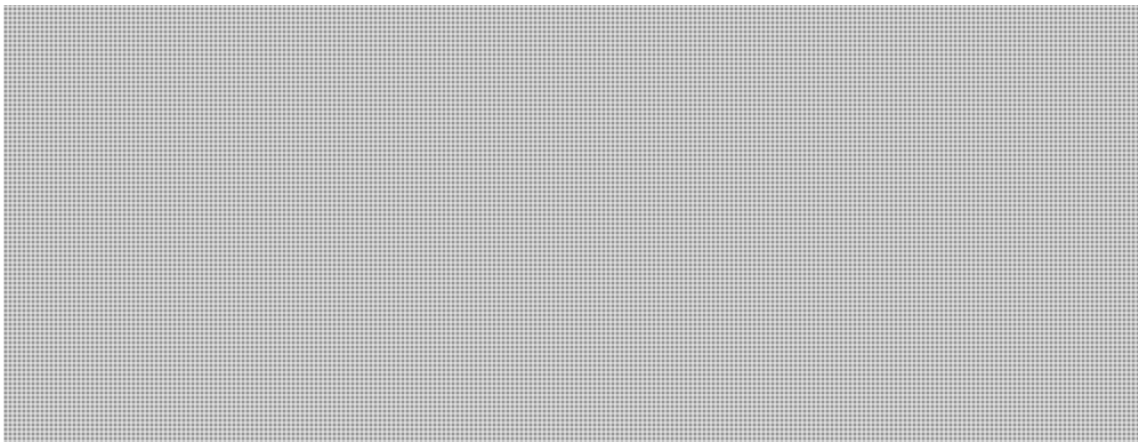
CONSIDERATIONS

Officials at Public Safety Canada (PS) reviewed a draft of the proposed letter to the Director of CSIS and provided input. CSIS has incorporated this input into the letter.

s.69(1)(g) re (e)



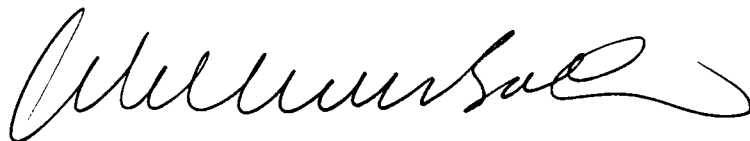
s.21(1)(a)
s.21(1)(b)



RECOMMENDATION

It is recommended that you sign the proposed letter to the Director of CSIS (**Tab A**).

Should you require additional information, please do not hesitate to contact me or Lynda Clairmont, Assistant Deputy Minister, Emergency Management and National Security, at 990-4967.

A handwritten signature in black ink, appearing to read 'William V. Baker', written in a cursive style.

William V. Baker

Enclosures :(3)

Minister of Public Safety



Ministre de la Sécurité publique

Ottawa, Canada K1A 0P8

DEC 07 2010

BY HAND

UNCLASSIFIED

Mr. Richard B. Fadden
Director
Canadian Security Intelligence Service
1941 Ogilvie Road
Ottawa, Ontario K1J 1B7

Dear Mr. Fadden:

The first and foremost responsibility of the state and its government is protecting its citizens. In the current threat environment, the number one national security priority of the Government of Canada has been, and will remain for the foreseeable future, the fight against terrorism. In this context, it is critical that information be shared quickly and widely among those with the mandate and responsibility to disrupt serious threats before they materialize.

The Government of Canada relies on the Canadian Security Intelligence Service (CSIS) to provide security intelligence to various federal partners, and other key stakeholders such as provincial and municipal authorities, in order to assist with protecting national security and public safety. The Service is expected to work in unique circumstances, and occasionally with international agencies that do not respect Canada's commitment to human rights. CSIS must nevertheless always ensure that its actions do not appear to condone the torture or mistreatment of any individual, and that its interactions with foreign agencies accord with this principle.

I wish to reiterate my direction to the Service, as expressed to you verbally following my appointment as Minister of Public Safety, regarding the handling of intelligence received from or given to foreign agencies. This letter expands on the guidance contained in the Ministerial Direction to CSIS on "Information Sharing with Foreign Agencies" of 14 May 2009, which states that CSIS must not knowingly rely upon information which is derived from torture, and have in place reasonable and appropriate measures to identify information that is likely to have been derived from the use of torture.

In exceptional circumstances where there exists a threat to human life or public safety, urgent operational imperatives may require CSIS to discharge its responsibility to share the most complete information available at the time with

Canada

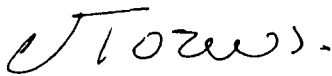
000430

relevant authorities, including information based on intelligence provided by foreign agencies that may have been derived from the use of torture or mistreatment. In such rare circumstances, it is understood that it may not always be possible to determine how a foreign agency obtained the information that may be relevant to addressing a threat. It is also understood that ignoring such information solely because of its source would represent an unacceptable risk to public safety.

Therefore, in situations where a serious risk to public safety exists, and where lives may be at stake, I expect and thus direct CSIS to make the protection of life and property its overriding priority, and share the necessary information – properly described and qualified – with appropriate authorities. The final decision to investigate and analyze information that may have been obtained via methods condemned by the Government of Canada is to be made by the CSIS Director, or the Deputy Director Operations; this decision shall be made only in accordance with Canada's legal obligations. Consistent with the 2008 Ministerial Direction to CSIS on "Operations," I further expect to be notified of any such decision as appropriate.

As you are aware, my officials in Public Safety Canada are preparing a more comprehensive Ministerial Direction to guide CSIS' international information-sharing practices. Until such time as it is finalized and new direction is issued to the Service, I expect you to continue operating under the 2009 Ministerial Direction on Information Sharing with Foreign Agencies, and further guidance set out in this letter.

Yours sincerely,



Vic Toews, P.C., Q.C., M.P.

**Pages 432 to / à 433
are withheld pursuant to sections
sont retenues en vertu des articles**

21(1)(a), 21(1)(b)

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



Minister of Public Safety

Ministre de la Sécurité publique

Ottawa, Canada K1A 0P8

DEC 07 2010

PAR MESSAGEUR

NON CLASSIFIÉ

Monsieur Richard B. Fadden
Directeur
Service canadien du renseignement de sécurité
1941, chemin Ogilvie
Ottawa (Ontario) K1J 1B7

Monsieur le directeur,

La responsabilité de l'État et du gouvernement est d'abord et avant tout de protéger la population. Dans le contexte actuel de la menace, la priorité du gouvernement du Canada sur le plan de la sécurité nationale est et demeurera, dans un avenir prévisible, la lutte contre le terrorisme. Dans cette optique, il est crucial que les informations soient communiquées rapidement et à grande échelle à toutes les personnes chargées de contrer les menaces graves avant qu'elles ne se matérialisent.

Le gouvernement du Canada a confié au Service canadien du renseignement de sécurité (SCRS) la mission de fournir des renseignements de sécurité à divers partenaires fédéraux ainsi qu'à d'autres intéressés clés, tels que les autorités provinciales et municipales, afin de veiller à la sécurité nationale du Canada et de protéger la population. Le Service est appelé à travailler dans des circonstances uniques et parfois à collaborer avec des organismes étrangers qui ne respectent pas l'engagement du Canada envers les droits de la personne. Néanmoins, il doit toujours éviter de donner l'impression, par son comportement, de tolérer la torture ou le mauvais traitement de quiconque et de laisser entendre que ses échanges avec des services étrangers signifient qu'il appuie ce genre de pratique.

Je souhaite réitérer mes instructions à l'intention du SCRS en ce qui concerne la manipulation de renseignements reçus de services étrangers, ou envoyés à ceux-ci, telles que je vous les ai exprimées de vive voix après ma nomination à titre de ministre de la Sécurité publique. La présente se veut un développement des conseils énoncés dans les instructions du ministre sur le partage d'information avec des organismes étrangers du 14 mai 2009, selon lesquelles le SCRS doit éviter de se fier sciemment à des informations obtenues au moyen de la torture et établir des mesures raisonnables et appropriées afin de discerner les informations qui risquent d'avoir été obtenues par la torture.

Dans des circonstances exceptionnelles où une vie humaine est en danger ou lorsqu'il existe une menace pour la sécurité publique, il est possible que le SCRS doive se

Canada

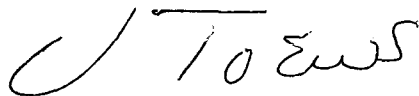
000434

décharger de sa responsabilité d'échanger les informations les plus complètes possibles avec les autorités compétentes en raison de conditions opérationnelles urgentes. Ces informations peuvent provenir de renseignements fournis par des services étrangers qui pourraient avoir été obtenus au moyen de la torture ou de mauvais traitements. Dans ces rares circonstances, on comprend qu'il n'est pas toujours possible de déterminer comment un service étranger s'est procuré les informations qui pourraient aider le Service à atténuer une menace. On juge également que le fait de rejeter ces informations uniquement en raison de leur provenance représente un risque inacceptable pour la sécurité publique.

Ainsi, dans les situations où une menace grave pèse sur la sécurité du Canada et où des vies pourraient être en péril, je demande au SCRS d'accorder à la protection de la vie humaine et des biens matériels une importance primordiale et d'échanger les informations nécessaires – décrites et identifiées adéquatement – avec les autorités compétentes. L'ultime décision d'analyser des informations qui pourraient avoir été obtenues au moyen de méthodes condamnées par le gouvernement du Canada ou d'enquêter sur ces informations relève du directeur du SCRS ou de son sous-directeur des Opérations. Elle doit être rendue dans le respect des obligations légales du Canada. Conformément aux instructions du ministre de 2008 sur les opérations, je m'attends également à être informé, lorsque cela est approprié, de la prise d'une telle décision.

Comme vous le savez, le personnel du ministère de la Sécurité publique rédige des instructions plus complètes qui doivent guider le SCRS lors de l'échange d'informations avec des organismes étrangers. D'ici à ce que ces instructions soient envoyées au Service, je vous demande de continuer à observer celles de 2009 sur le partage d'informations avec des organismes étrangers, de même que les conseils énoncés dans la présente.

Veillez agréer, Monsieur le directeur, l'expression de mes sentiments les plus distingués.

A handwritten signature in black ink, appearing to read "Vic Toews". The signature is fluid and cursive, with a large initial "V" and "T".

Vic Toews, P.C., Q.C., M.P.

Page 436

**is withheld pursuant to sections
est retenue en vertu des articles**

21(1)(a), 21(1)(b)

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

MINISTERIAL DIRECTION TO THE DIRECTOR
CANADIAN SECURITY INTELLIGENCE SERVICE:
INFORMATION SHARING WITH FOREIGN AGENCIES

This Ministerial Direction provides guidance to the Director of the Canadian Security Intelligence Service (CSIS), pursuant to subsection 6(2) of the *CSIS Act*, on information-sharing with foreign agencies.

INFORMATION SHARING WITH FOREIGN AGENCIES

It is widely recognized that the international sharing of information is a vital component to safeguarding Canada's national security as well as an obligation of all states, pursuant to resolutions and conventions of the United Nations and other multilateral institutions, engaged in the struggle against terrorism. As such, pursuant to section 17 of the *CSIS Act* and in accordance with existing Ministerial Directives, CSIS may be authorized to enter into formal information sharing arrangements with foreign agencies, including those that are generally recognized as having poor human rights records.

That said, the government is steadfast in its abhorrence of and opposition to the use of torture by any state or agency for any purpose whatsoever, including the collection of intelligence. As such, and so as to avoid any complicity in the use of torture, CSIS is directed to:

- not knowingly rely upon information which is derived from the use of torture, and to have in place reasonable and appropriate measures to identify information that is likely to have been derived from the use of torture;
- take all other reasonable measures to reduce the risk that any action on the part of the Service might promote or condone, or be seen to promote or condone the use of torture, including, where appropriate, the seeking of assurances when sharing information with foreign agencies.

Approved by: the Minister of Public Safety on May 14, 2009

**Pages 438 to / à 441
are withheld pursuant to section
sont retenues en vertu de l'article**

69(1)(g) re (e)

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



Public Safety Canada / Sécurité publique Canada
Deputy Minister / Sous-ministre
Ottawa, Canada
K1A 0P8

SECRET

DATE: FEB 16 2011

File No: 6915-8 / 20970 / 377057

MEMORANDUM FOR THE MINISTER

**MINISTERIAL DIRECTION TO THE
CANADIAN SECURITY INTELLIGENCE SERVICE
PROVIDED TO THE SECURITY INTELLIGENCE REVIEW COMMITTEE**

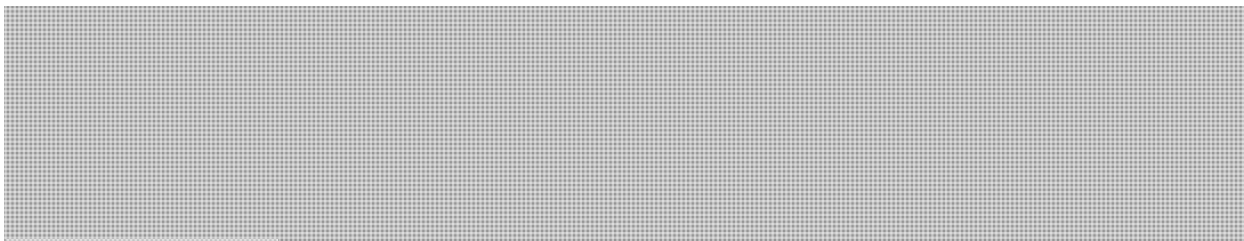
(Signature Required)

Issue

Copies of Ministerial Direction to the Director of the Canadian Security Intelligence Service (CSIS) to be sent to the Security Intelligence Review Committee (SIRC) and the Inspector General (IG).

Background

On December 7, 2010, you wrote to the Director of CSIS, Richard Fadden, expanding on the guidance contained in the Ministerial Direction to CSIS on "Information Sharing with Foreign Agencies" of May 14, 2009 (**Tab A**). In that letter, you directed CSIS to make the protection of life and property its overriding priority, and share the necessary information with appropriate authorities in exceptional situations where there exists a serious risk to public safety.



A new Ministerial Direction on information-sharing with foreign agencies is now being developed; we expect to send it to you shortly for your review. When approved, it will replace the guidance contained in your letter.

s.69(1)(g) re (c)
s.69(1)(g) re (e)

Pursuant to section 6(2) of the CSIS Act, you are required to provide SIRC with a copy of written Ministerial Direction to CSIS. It is also customary for you to provide the IG with a copy of the Ministerial Direction at the same time.

Recommendation

It is recommended that you sign the enclosed letters, providing copies of the Ministerial Direction on information-sharing with foreign agencies:

- to Dr. Arthur T. Porter, Chair of SIRC (**Tab B**); and
- to Ms. Eva Plunkett, IG of CSIS (**Tab C**).

Should you require additional information, please do not hesitate to contact me or Lynda Clairmont, Assistant Deputy Minister, Emergency Management and National Security at 613-990-4967.

A handwritten signature in black ink, appearing to read 'William V. Baker', with a long horizontal flourish extending to the right.

William V. Baker

Enclosures: (3)

Prepared by: Stephanie Cochrane

Minister of Public Safety



Ministre de la Sécurité publique

Ottawa, Canada K1A 0P8

DEC 07 2010

BY HAND

UNCLASSIFIED

Mr. Richard B. Fadden
Director
Canadian Security Intelligence Service
1941 Ogilvie Road
Ottawa, Ontario K1J 1B7

Dear Mr. Fadden:

The first and foremost responsibility of the state and its government is protecting its citizens. In the current threat environment, the number one national security priority of the Government of Canada has been, and will remain for the foreseeable future, the fight against terrorism. In this context, it is critical that information be shared quickly and widely among those with the mandate and responsibility to disrupt serious threats before they materialize.

The Government of Canada relies on the Canadian Security Intelligence Service (CSIS) to provide security intelligence to various federal partners, and other key stakeholders such as provincial and municipal authorities, in order to assist with protecting national security and public safety. The Service is expected to work in unique circumstances, and occasionally with international agencies that do not respect Canada's commitment to human rights. CSIS must nevertheless always ensure that its actions do not appear to condone the torture or mistreatment of any individual, and that its interactions with foreign agencies accord with this principle.

I wish to reiterate my direction to the Service, as expressed to you verbally following my appointment as Minister of Public Safety, regarding the handling of intelligence received from or given to foreign agencies. This letter expands on the guidance contained in the Ministerial Direction to CSIS on "Information Sharing with Foreign Agencies" of 14 May 2009, which states that CSIS must not knowingly rely upon information which is derived from torture, and have in place reasonable and appropriate measures to identify information that is likely to have been derived from the use of torture.

In exceptional circumstances where there exists a threat to human life or public safety, urgent operational imperatives may require CSIS to discharge its responsibility to share the most complete information available at the time with

Canada

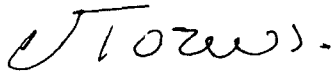
000444

relevant authorities, including information based on intelligence provided by foreign agencies that may have been derived from the use of torture or mistreatment. In such rare circumstances, it is understood that it may not always be possible to determine how a foreign agency obtained the information that may be relevant to addressing a threat. It is also understood that ignoring such information solely because of its source would represent an unacceptable risk to public safety.

Therefore, in situations where a serious risk to public safety exists, and where lives may be at stake, I expect and thus direct CSIS to make the protection of life and property its overriding priority, and share the necessary information – properly described and qualified – with appropriate authorities. The final decision to investigate and analyze information that may have been obtained via methods condemned by the Government of Canada is to be made by the CSIS Director, or the Deputy Director Operations; this decision shall be made only in accordance with Canada's legal obligations. Consistent with the 2008 Ministerial Direction to CSIS on "Operations," I further expect to be notified of any such decision as appropriate.

As you are aware, my officials in Public Safety Canada are preparing a more comprehensive Ministerial Direction to guide CSIS' international information-sharing practices. Until such time as it is finalized and new direction is issued to the Service, I expect you to continue operating under the 2009 Ministerial Direction on Information Sharing with Foreign Agencies, and further guidance set out in this letter.

Yours sincerely,



Vic Toews, P.C., Q.C., M.P.

Minister of Public Safety



Ministre de la Sécurité publique

Ottawa, Canada K1A 0P8

DEC 07 2010

PAR MESSAGEUR

NON CLASSIFIÉ

Monsieur Richard B. Fadden
Directeur
Service canadien du renseignement de sécurité
1941, chemin Ogilvie
Ottawa (Ontario) K1J 1B7

Monsieur le directeur,

La responsabilité de l'État et du gouvernement est d'abord et avant tout de protéger la population. Dans le contexte actuel de la menace, la priorité du gouvernement du Canada sur le plan de la sécurité nationale est et demeurera, dans un avenir prévisible, la lutte contre le terrorisme. Dans cette optique, il est crucial que les informations soient communiquées rapidement et à grande échelle à toutes les personnes chargées de contrer les menaces graves avant qu'elles ne se matérialisent.

Le gouvernement du Canada a confié au Service canadien du renseignement de sécurité (SCRS) la mission de fournir des renseignements de sécurité à divers partenaires fédéraux ainsi qu'à d'autres intéressés clés, tels que les autorités provinciales et municipales, afin de veiller à la sécurité nationale du Canada et de protéger la population. Le Service est appelé à travailler dans des circonstances uniques et parfois à collaborer avec des organismes étrangers qui ne respectent pas l'engagement du Canada envers les droits de la personne. Néanmoins, il doit toujours éviter de donner l'impression, par son comportement, de tolérer la torture ou le mauvais traitement de quiconque et de laisser entendre que ses échanges avec des services étrangers signifient qu'il appuie ce genre de pratique.

Je souhaite réitérer mes instructions à l'intention du SCRS en ce qui concerne la manipulation de renseignements reçus de services étrangers, ou envoyés à ceux-ci, telles que je vous les ai exprimées de vive voix après ma nomination à titre de ministre de la Sécurité publique. La présente se veut un développement des conseils énoncés dans les instructions du ministre sur le partage d'information avec des organismes étrangers du 14 mai 2009, selon lesquelles le SCRS doit éviter de se fier sciemment à des informations obtenues au moyen de la torture et établir des mesures raisonnables et appropriées afin de discerner les informations qui risquent d'avoir été obtenues par la torture.

Dans des circonstances exceptionnelles où une vie humaine est en danger ou lorsqu'il existe une menace pour la sécurité publique, il est possible que le SCRS doive se

Canada

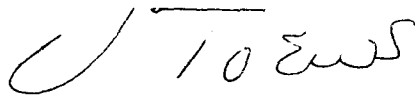
000446

décharger de sa responsabilité d'échanger les informations les plus complètes possibles avec les autorités compétentes en raison de conditions opérationnelles urgentes. Ces informations peuvent provenir de renseignements fournis par des services étrangers qui pourraient avoir été obtenus au moyen de la torture ou de mauvais traitements. Dans ces rares circonstances, on comprend qu'il n'est pas toujours possible de déterminer comment un service étranger s'est procuré les informations qui pourraient aider le Service à atténuer une menace. On juge également que le fait de rejeter ces informations uniquement en raison de leur provenance représente un risque inacceptable pour la sécurité publique.

Ainsi, dans les situations où une menace grave pèse sur la sécurité du Canada et où des vies pourraient être en péril, je demande au SCRS d'accorder à la protection de la vie humaine et des biens matériels une importance primordiale et d'échanger les informations nécessaires – décrites et identifiées adéquatement – avec les autorités compétentes. L'ultime décision d'analyser des informations qui pourraient avoir été obtenues au moyen de méthodes condamnées par le gouvernement du Canada ou d'enquêter sur ces informations relève du directeur du SCRS ou de son sous-directeur des Opérations. Elle doit être rendue dans le respect des obligations légales du Canada. Conformément aux instructions du ministre de 2008 sur les opérations, je m'attends également à être informé, lorsque cela est approprié, de la prise d'une telle décision.

Comme vous le savez, le personnel du ministère de la Sécurité publique rédige des instructions plus complètes qui doivent guider le SCRS lors de l'échange d'informations avec des organismes étrangers. D'ici à ce que ces instructions soient envoyées au Service, je vous demande de continuer à observer celles de 2009 sur le partage d'informations avec des organismes étrangers, de même que les conseils énoncés dans la présente.

Veuillez agréer, Monsieur le directeur, l'expression de mes sentiments les plus distingués.

A handwritten signature in black ink, appearing to read 'Vic Toews', with a stylized flourish at the beginning.

Vic Toews, P.C., Q.C., M.P.

Minister of Public Safety



Ministre de la Sécurité publique

Ottawa, Canada K1A 0P8

MAR 11 2011

UNCLASSIFIED

Dr. Arthur T. Porter
Chair
Security Intelligence Review Committee
Jackson Building
122 Bank Street
Ottawa, Ontario K1P 5N6

Dear Dr. Porter:

Pursuant to section 6(2) of the *Canadian Security Intelligence Service (CSIS) Act*, please find enclosed a copy of the revised Ministerial Direction I provided to the Director of CSIS on information sharing with foreign agencies.

Expanding upon the guidance I provided in May 2009, I have indicated that in exceptional situations where there exists a serious risk to public safety, and where lives may be at stake, CSIS will make the protection of life and property its overriding priority, and share the necessary information with appropriate authorities.

I have also provided a copy of this revised Ministerial Direction to the Inspector General, as is customary practice.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Vic Toews".

Vic Toews, P.C., Q.C., M.P.

Enclosure: (1)

Canada

000448

Minister of Public Safety



Ministre de la Sécurité publique

Ottawa, Canada K1A 0P8

DEC 07 2010

BY HAND

UNCLASSIFIED

Mr. Richard B. Fadden
Director
Canadian Security Intelligence Service
1941 Ogilvie Road
Ottawa, Ontario K1J 1B7

Dear Mr. Fadden:

The first and foremost responsibility of the state and its government is protecting its citizens. In the current threat environment, the number one national security priority of the Government of Canada has been, and will remain for the foreseeable future, the fight against terrorism. In this context, it is critical that information be shared quickly and widely among those with the mandate and responsibility to disrupt serious threats before they materialize.

The Government of Canada relies on the Canadian Security Intelligence Service (CSIS) to provide security intelligence to various federal partners, and other key stakeholders such as provincial and municipal authorities, in order to assist with protecting national security and public safety. The Service is expected to work in unique circumstances, and occasionally with international agencies that do not respect Canada's commitment to human rights. CSIS must nevertheless always ensure that its actions do not appear to condone the torture or mistreatment of any individual, and that its interactions with foreign agencies accord with this principle.

I wish to reiterate my direction to the Service, as expressed to you verbally following my appointment as Minister of Public Safety, regarding the handling of intelligence received from or given to foreign agencies. This letter expands on the guidance contained in the Ministerial Direction to CSIS on "Information Sharing with Foreign Agencies" of 14 May 2009, which states that CSIS must not knowingly rely upon information which is derived from torture, and have in place reasonable and appropriate measures to identify information that is likely to have been derived from the use of torture.

In exceptional circumstances where there exists a threat to human life or public safety, urgent operational imperatives may require CSIS to discharge its responsibility to share the most complete information available at the time with

Canada

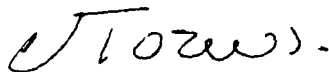
000449

relevant authorities, including information based on intelligence provided by foreign agencies that may have been derived from the use of torture or mistreatment. In such rare circumstances, it is understood that it may not always be possible to determine how a foreign agency obtained the information that may be relevant to addressing a threat. It is also understood that ignoring such information solely because of its source would represent an unacceptable risk to public safety.

Therefore, in situations where a serious risk to public safety exists, and where lives may be at stake, I expect and thus direct CSIS to make the protection of life and property its overriding priority, and share the necessary information – properly described and qualified – with appropriate authorities. The final decision to investigate and analyze information that may have been obtained via methods condemned by the Government of Canada is to be made by the CSIS Director, or the Deputy Director Operations; this decision shall be made only in accordance with Canada's legal obligations. Consistent with the 2008 Ministerial Direction to CSIS on "Operations," I further expect to be notified of any such decision as appropriate.

As you are aware, my officials in Public Safety Canada are preparing a more comprehensive Ministerial Direction to guide CSIS' international information-sharing practices. Until such time as it is finalized and new direction is issued to the Service, I expect you to continue operating under the 2009 Ministerial Direction on Information Sharing with Foreign Agencies, and further guidance set out in this letter.

Yours sincerely,



Vic Toews, P.C., Q.C., M.P.

Minister of Public Safety



Ministre de la Sécurité publique

Ottawa, Canada K1A 0P8

DEC 07 2010

PAR MESSAGEUR

NON CLASSIFIÉ

Monsieur Richard B. Fadden
Directeur
Service canadien du renseignement de sécurité
1941, chemin Ogilvie
Ottawa (Ontario) K1J 1B7

Monsieur le directeur,

La responsabilité de l'État et du gouvernement est d'abord et avant tout de protéger la population. Dans le contexte actuel de la menace, la priorité du gouvernement du Canada sur le plan de la sécurité nationale est et demeurera, dans un avenir prévisible, la lutte contre le terrorisme. Dans cette optique, il est crucial que les informations soient communiquées rapidement et à grande échelle à toutes les personnes chargées de contrer les menaces graves avant qu'elles ne se matérialisent.

Le gouvernement du Canada a confié au Service canadien du renseignement de sécurité (SCRS) la mission de fournir des renseignements de sécurité à divers partenaires fédéraux ainsi qu'à d'autres intéressés clés, tels que les autorités provinciales et municipales, afin de veiller à la sécurité nationale du Canada et de protéger la population. Le Service est appelé à travailler dans des circonstances uniques et parfois à collaborer avec des organismes étrangers qui ne respectent pas l'engagement du Canada envers les droits de la personne. Néanmoins, il doit toujours éviter de donner l'impression, par son comportement, de tolérer la torture ou le mauvais traitement de quiconque et de laisser entendre que ses échanges avec des services étrangers signifient qu'il appuie ce genre de pratique.

Je souhaite réitérer mes instructions à l'intention du SCRS en ce qui concerne la manipulation de renseignements reçus de services étrangers, ou envoyés à ceux-ci, telles que je vous les ai exprimées de vive voix après ma nomination à titre de ministre de la Sécurité publique. La présente se veut un développement des conseils énoncés dans les instructions du ministre sur le partage d'information avec des organismes étrangers du 14 mai 2009, selon lesquelles le SCRS doit éviter de se fier sciemment à des informations obtenues au moyen de la torture et établir des mesures raisonnables et appropriées afin de discerner les informations qui risquent d'avoir été obtenues par la torture.

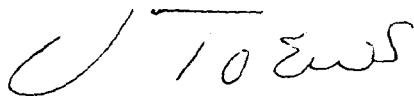
Dans des circonstances exceptionnelles où une vie humaine est en danger ou lorsqu'il existe une menace pour la sécurité publique, il est possible que le SCRS doive se

décharger de sa responsabilité d'échanger les informations les plus complètes possibles avec les autorités compétentes en raison de conditions opérationnelles urgentes. Ces informations peuvent provenir de renseignements fournis par des services étrangers qui pourraient avoir été obtenus au moyen de la torture ou de mauvais traitements. Dans ces rares circonstances, on comprend qu'il n'est pas toujours possible de déterminer comment un service étranger s'est procuré les informations qui pourraient aider le Service à atténuer une menace. On juge également que le fait de rejeter ces informations uniquement en raison de leur provenance représente un risque inacceptable pour la sécurité publique.

Ainsi, dans les situations où une menace grave pèse sur la sécurité du Canada et où des vies pourraient être en péril, je demande au SCRS d'accorder à la protection de la vie humaine et des biens matériels une importance primordiale et d'échanger les informations nécessaires – décrites et identifiées adéquatement – avec les autorités compétentes. L'ultime décision d'analyser des informations qui pourraient avoir été obtenues au moyen de méthodes condamnées par le gouvernement du Canada ou d'enquêter sur ces informations relève du directeur du SCRS ou de son sous-directeur des Opérations. Elle doit être rendue dans le respect des obligations légales du Canada. Conformément aux instructions du ministre de 2008 sur les opérations, je m'attends également à être informé, lorsque cela est approprié, de la prise d'une telle décision.

Comme vous le savez, le personnel du ministère de la Sécurité publique rédige des instructions plus complètes qui doivent guider le SCRS lors de l'échange d'informations avec des organismes étrangers. D'ici à ce que ces instructions soient envoyées au Service, je vous demande de continuer à observer celles de 2009 sur le partage d'informations avec des organismes étrangers, de même que les conseils énoncés dans la présente.

Veuillez agréer, Monsieur le directeur, l'expression de mes sentiments les plus distingués.

A handwritten signature in black ink, appearing to read 'Vic Toews', written in a cursive style.

Vic Toews, P.C., Q.C., M.P.

Minister of Public Safety



Ministre de la Sécurité publique

Ottawa, Canada K1A 0P8

UNCLASSIFIED

MAR 11 2011

Ms. Eva Plunkett
Inspector General of the Canadian Security Intelligence Service
Room 11E159
340 Laurier Avenue West
Ottawa, Ontario K1A 0P8

Dear Ms. Plunkett:

Please find enclosed a copy of the revised Ministerial Direction I provided to the Director of the Canadian Security Intelligence Service (CSIS) on "Information Sharing with Foreign Agencies".

Expanding upon the guidance I provided in May 2009, I have indicated that in exceptional situations where there exists a serious risk to public safety, and where lives may be at stake, CSIS will make the protection of life and property its overriding priority, and share the necessary information with appropriate authorities.

A copy of this Ministerial Direction has been provided to the Security Intelligence Review Committee, and I customarily provide you with a copy as well.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Vic Toews".

Vic Toews, P.C., Q.C., M.P.

Enclosure: (1)

Canada

000453

Minister of Public Safety



Ministre de la Sécurité publique

Ottawa, Canada K1A 0P8

DEC 07 2010

BY HAND

UNCLASSIFIED

Mr. Richard B. Fadden
Director
Canadian Security Intelligence Service
1941 Ogilvie Road
Ottawa, Ontario K1J 1B7

Dear Mr. Fadden:

The first and foremost responsibility of the state and its government is protecting its citizens. In the current threat environment, the number one national security priority of the Government of Canada has been, and will remain for the foreseeable future, the fight against terrorism. In this context, it is critical that information be shared quickly and widely among those with the mandate and responsibility to disrupt serious threats before they materialize.

The Government of Canada relies on the Canadian Security Intelligence Service (CSIS) to provide security intelligence to various federal partners, and other key stakeholders such as provincial and municipal authorities, in order to assist with protecting national security and public safety. The Service is expected to work in unique circumstances, and occasionally with international agencies that do not respect Canada's commitment to human rights. CSIS must nevertheless always ensure that its actions do not appear to condone the torture or mistreatment of any individual, and that its interactions with foreign agencies accord with this principle.

I wish to reiterate my direction to the Service, as expressed to you verbally following my appointment as Minister of Public Safety, regarding the handling of intelligence received from or given to foreign agencies. This letter expands on the guidance contained in the Ministerial Direction to CSIS on "Information Sharing with Foreign Agencies" of 14 May 2009, which states that CSIS must not knowingly rely upon information which is derived from torture, and have in place reasonable and appropriate measures to identify information that is likely to have been derived from the use of torture.

In exceptional circumstances where there exists a threat to human life or public safety, urgent operational imperatives may require CSIS to discharge its responsibility to share the most complete information available at the time with

Canada

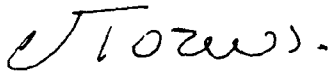
000454

relevant authorities, including information based on intelligence provided by foreign agencies that may have been derived from the use of torture or mistreatment. In such rare circumstances, it is understood that it may not always be possible to determine how a foreign agency obtained the information that may be relevant to addressing a threat. It is also understood that ignoring such information solely because of its source would represent an unacceptable risk to public safety.

Therefore, in situations where a serious risk to public safety exists, and where lives may be at stake, I expect and thus direct CSIS to make the protection of life and property its overriding priority, and share the necessary information – properly described and qualified – with appropriate authorities. The final decision to investigate and analyze information that may have been obtained via methods condemned by the Government of Canada is to be made by the CSIS Director, or the Deputy Director Operations; this decision shall be made only in accordance with Canada's legal obligations. Consistent with the 2008 Ministerial Direction to CSIS on "Operations," I further expect to be notified of any such decision as appropriate.

As you are aware, my officials in Public Safety Canada are preparing a more comprehensive Ministerial Direction to guide CSIS' international information-sharing practices. Until such time as it is finalized and new direction is issued to the Service, I expect you to continue operating under the 2009 Ministerial Direction on Information Sharing with Foreign Agencies, and further guidance set out in this letter.

Yours sincerely,



Vic Toews, P.C., Q.C., M.P.

Minister of Public Safety



Ministre de la Sécurité publique

Ottawa, Canada K1A 0P8

DEC 07 2010

PAR MESSAGEUR

NON CLASSIFIÉ

Monsieur Richard B. Fadden
Directeur
Service canadien du renseignement de sécurité
1941, chemin Ogilvie
Ottawa (Ontario) K1J 1B7

Monsieur le directeur,

La responsabilité de l'État et du gouvernement est d'abord et avant tout de protéger la population. Dans le contexte actuel de la menace, la priorité du gouvernement du Canada sur le plan de la sécurité nationale est et demeurera, dans un avenir prévisible, la lutte contre le terrorisme. Dans cette optique, il est crucial que les informations soient communiquées rapidement et à grande échelle à toutes les personnes chargées de contrer les menaces graves avant qu'elles ne se matérialisent.

Le gouvernement du Canada a confié au Service canadien du renseignement de sécurité (SCRS) la mission de fournir des renseignements de sécurité à divers partenaires fédéraux ainsi qu'à d'autres intéressés clés, tels que les autorités provinciales et municipales, afin de veiller à la sécurité nationale du Canada et de protéger la population. Le Service est appelé à travailler dans des circonstances uniques et parfois à collaborer avec des organismes étrangers qui ne respectent pas l'engagement du Canada envers les droits de la personne. Néanmoins, il doit toujours éviter de donner l'impression, par son comportement, de tolérer la torture ou le mauvais traitement de quiconque et de laisser entendre que ses échanges avec des services étrangers signifient qu'il appuie ce genre de pratique.

Je souhaite réitérer mes instructions à l'intention du SCRS en ce qui concerne la manipulation de renseignements reçus de services étrangers, ou envoyés à ceux-ci, telles que je vous les ai exprimées de vive voix après ma nomination à titre de ministre de la Sécurité publique. La présente se veut un développement des conseils énoncés dans les instructions du ministre sur le partage d'information avec des organismes étrangers du 14 mai 2009, selon lesquelles le SCRS doit éviter de se fier sciemment à des informations obtenues au moyen de la torture et établir des mesures raisonnables et appropriées afin de discerner les informations qui risquent d'avoir été obtenues par la torture.

Dans des circonstances exceptionnelles où une vie humaine est en danger ou lorsqu'il existe une menace pour la sécurité publique, il est possible que le SCRS doive se

Canada

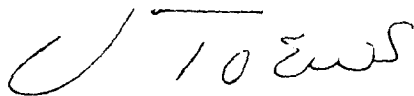
000456

décharger de sa responsabilité d'échanger les informations les plus complètes possibles avec les autorités compétentes en raison de conditions opérationnelles urgentes. Ces informations peuvent provenir de renseignements fournis par des services étrangers qui pourraient avoir été obtenus au moyen de la torture ou de mauvais traitements. Dans ces rares circonstances, on comprend qu'il n'est pas toujours possible de déterminer comment un service étranger s'est procuré les informations qui pourraient aider le Service à atténuer une menace. On juge également que le fait de rejeter ces informations uniquement en raison de leur provenance représente un risque inacceptable pour la sécurité publique.

Ainsi, dans les situations où une menace grave pèse sur la sécurité du Canada et où des vies pourraient être en péril, je demande au SCRS d'accorder à la protection de la vie humaine et des biens matériels une importance primordiale et d'échanger les informations nécessaires – décrites et identifiées adéquatement – avec les autorités compétentes. L'ultime décision d'analyser des informations qui pourraient avoir été obtenues au moyen de méthodes condamnées par le gouvernement du Canada ou d'enquêter sur ces informations relève du directeur du SCRS ou de son sous-directeur des Opérations. Elle doit être rendue dans le respect des obligations légales du Canada. Conformément aux instructions du ministre de 2008 sur les opérations, je m'attends également à être informé, lorsque cela est approprié, de la prise d'une telle décision.

Comme vous le savez, le personnel du ministère de la Sécurité publique rédige des instructions plus complètes qui doivent guider le SCRS lors de l'échange d'informations avec des organismes étrangers. D'ici à ce que ces instructions soient envoyées au Service, je vous demande de continuer à observer celles de 2009 sur le partage d'informations avec des organismes étrangers, de même que les conseils énoncés dans la présente.

Veillez agréer, Monsieur le directeur, l'expression de mes sentiments les plus distingués.

A handwritten signature in black ink, appearing to read 'Vic Toews', with a stylized flourish at the end.

Vic Toews, P.C., Q.C., M.P.



Public Safety Sécurité publique
Canada Canada
Deputy Minister Sous-ministre
Ottawa, Canada
K1A 0P8

SECRET

DATE: **JUL 13 2011**

File No.: 6915-8 / 21105 / 378673

MEMORANDUM FOR THE MINISTER

**MINISTERIAL DIRECTION ON
INFORMATION SHARING WITH FOREIGN ENTITIES**

(Signature Required)

ISSUE

New Ministerial Direction (MD) to the Canadian Security Intelligence Service (CSIS) on sharing information with foreign agencies.

BACKGROUND

On May 14, 2009, the previous Minister of Public Safety issued direction on “Information Sharing with Foreign Agencies” (**Tab A**). It directs CSIS to “not knowingly rely upon information which is derived from the use of torture,” and to “have in place reasonable and appropriate measures to identify information that is likely to have been derived from the use of torture.”

On December 7, 2010, you provided additional guidance on information sharing with foreign agencies (**Tab B**). Your letter “directs CSIS to make the protection of life and property its overriding priority, and share the necessary information – properly described and qualified – with appropriate authorities”; decisions are to be made by the Director and in accordance with Canada’s legal obligations.

s.69(1)(g) re (c)
s.69(1)(g) re (e)



CONSIDERATIONS

In order for the Framework to come into effect, it must be issued to CSIS as an MD.

The proposed MD on “Information Sharing with Foreign Entities” (**Tab D**) would consolidate the 2009 MD, your 2010 letter, and the Framework into a single guidance document for CSIS.

s.21(1)(a)

s.21(1)(b)



s.23



Pursuant to section 6(2) of the *CSIS Act*, any MD that you issue must be shared with the Security Intelligence Review Committee (SIRC). It is also customary to share MDs with the Inspector General of CSIS.

We are preparing a comparable MD for the Canada Border Services Agency and the Royal Canadian Mounted Police, which we will send very shortly under separate cover for your review.

RECOMMENDATION

It is recommended that you approve the MD on “Information Sharing with Foreign Entities” by signing and dating the enclosed letter to the Director of CSIS (**Tab E**).

It is also recommended that you sign and date the enclosed letters to the Chair of SIRC (**Tab F**) and the Inspector General of CSIS (**Tab G**), informing them of the new MD.

Should you require additional information, please do not hesitate to contact me or Lynda Clairmont, Assistant Deputy Minister, Emergency Management and National Security, at 990-4967.

A handwritten signature in black ink, appearing to read 'William V. Baker', with a long, sweeping tail.

William V. Baker

Enclosures: (7)

Prepared by: Darryl Hirsch

**MINISTERIAL DIRECTION TO THE DIRECTOR
CANADIAN SECURITY INTELLIGENCE SERVICE:
INFORMATION SHARING WITH FOREIGN AGENCIES**

This Ministerial Direction provides guidance to the Director of the Canadian Security Intelligence Service (CSIS), pursuant to subsection 6(2) of the *CSIS Act*, on information-sharing with foreign agencies.

INFORMATION SHARING WITH FOREIGN AGENCIES

It is widely recognized that the international sharing of information is a vital component to safeguarding Canada's national security as well as an obligation of all states, pursuant to resolutions and conventions of the United Nations and other multilateral institutions, engaged in the struggle against terrorism. As such, pursuant to section 17 of the *CSIS Act* and in accordance with existing Ministerial Directives, CSIS may be authorized to enter into formal information sharing arrangements with foreign agencies, including those that are generally recognized as having poor human rights records.

That said, the government is steadfast in its abhorrence of and opposition to the use of torture by any state or agency for any purpose whatsoever, including the collection of intelligence. As such, and so as to avoid any complicity in the use of torture, CSIS is directed to:

- not knowingly rely upon information which is derived from the use of torture, and to have in place reasonable and appropriate measures to identify information that is likely to have been derived from the use of torture;
- take all other reasonable measures to reduce the risk that any action on the part of the Service might promote or condone, or be seen to promote or condone the use of torture, including, where appropriate, the seeking of assurances when sharing information with foreign agencies.

Approved by: the Minister of Public Safety on May 14, 2009

Minister of Public Safety



Ministre de la Sécurité publique

Ottawa, Canada K1A 0P8

DEC 07 2010

BY HAND

UNCLASSIFIED

Mr. Richard B. Fadden
Director
Canadian Security Intelligence Service
1941 Ogilvie Road
Ottawa, Ontario K1J 1B7

Dear Mr. Fadden:

The first and foremost responsibility of the state and its government is protecting its citizens. In the current threat environment, the number one national security priority of the Government of Canada has been, and will remain for the foreseeable future, the fight against terrorism. In this context, it is critical that information be shared quickly and widely among those with the mandate and responsibility to disrupt serious threats before they materialize.

The Government of Canada relies on the Canadian Security Intelligence Service (CSIS) to provide security intelligence to various federal partners, and other key stakeholders such as provincial and municipal authorities, in order to assist with protecting national security and public safety. The Service is expected to work in unique circumstances, and occasionally with international agencies that do not respect Canada's commitment to human rights. CSIS must nevertheless always ensure that its actions do not appear to condone the torture or mistreatment of any individual, and that its interactions with foreign agencies accord with this principle.

I wish to reiterate my direction to the Service, as expressed to you verbally following my appointment as Minister of Public Safety, regarding the handling of intelligence received from or given to foreign agencies. This letter expands on the guidance contained in the Ministerial Direction to CSIS on "Information Sharing with Foreign Agencies" of 14 May 2009, which states that CSIS must not knowingly rely upon information which is derived from torture, and have in place reasonable and appropriate measures to identify information that is likely to have been derived from the use of torture.

In exceptional circumstances where there exists a threat to human life or public safety, urgent operational imperatives may require CSIS to discharge its responsibility to share the most complete information available at the time with

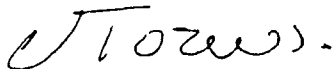
Canada

relevant authorities, including information based on intelligence provided by foreign agencies that may have been derived from the use of torture or mistreatment. In such rare circumstances, it is understood that it may not always be possible to determine how a foreign agency obtained the information that may be relevant to addressing a threat. It is also understood that ignoring such information solely because of its source would represent an unacceptable risk to public safety.

Therefore, in situations where a serious risk to public safety exists, and where lives may be at stake, I expect and thus direct CSIS to make the protection of life and property its overriding priority, and share the necessary information – properly described and qualified – with appropriate authorities. The final decision to investigate and analyze information that may have been obtained via methods condemned by the Government of Canada is to be made by the CSIS Director, or the Deputy Director Operations; this decision shall be made only in accordance with Canada's legal obligations. Consistent with the 2008 Ministerial Direction to CSIS on "Operations," I further expect to be notified of any such decision as appropriate.

As you are aware, my officials in Public Safety Canada are preparing a more comprehensive Ministerial Direction to guide CSIS' international information-sharing practices. Until such time as it is finalized and new direction is issued to the Service, I expect you to continue operating under the 2009 Ministerial Direction on Information Sharing with Foreign Agencies, and further guidance set out in this letter.

Yours sincerely,



Vic Toews, P.C., Q.C., M.P.

Framework for Addressing Risks of Mistreatment in Sharing Information with Foreign Entities¹

- Sharing information with foreign entities is necessary in order to respond to national security threats. It is essential that Canadian intelligence and law enforcement authorities are able to maintain strong relationships with foreign entities, and can share information with them on both a routine and an urgent basis.
- Deputy Ministers and Agency Heads have been delegated the responsibility for making decisions with respect to the sharing of information with foreign entities.² Departments and agencies must carefully manage relationships with foreign entities, assisted by policies that guide information sharing practices, to ensure that the sharing of information does not give rise to a substantial risk of mistreatment.

Objective

- The following Framework forms part of the suite of directives and policies that govern departments' and agencies' information sharing practices. The objective is to establish a coherent and consistent approach across the Government of Canada in deciding whether or not to send information to, or solicit information from, a foreign entity when doing so may give rise to a substantial risk of mistreatment of an individual.

Canada's Obligations

- The Government of Canada opposes in the strongest possible terms the mistreatment of any individual by any foreign entity for any purpose. The Government also has a duty to its own citizens and to its allies to prevent individuals engaging in threat related activities from causing harm, whether in Canada or in a foreign country.
- The Government of Canada does not condone the use of torture or other unlawful methods in responding to terrorism and other threats to national security. The Government is committed to pursuing a principled and proportionate response to these threats, while promoting and upholding the values Canada seeks to protect.
- Canada is a party to a number of international agreements that prohibit torture and other forms of cruel, inhuman, or degrading treatment or punishment. These include the *International Covenant on Civil and Political Rights* and the *Convention Against Torture (CAT)*. The *CAT* requires state parties to criminalize all instances of torture, and to take effective measures to prevent torture and other cruel, inhuman, or degrading treatment or punishment in any territory under their jurisdiction.

¹ This Framework would not change existing legal authorities for sharing information with foreign entities. Although the term, foreign entity, has not been formally defined, it primarily refers to foreign government agencies and militaries. The term may also refer to military coalitions, alliances, and international organizations.

² For the purpose of this Framework, Deputy Minister also includes the Chief of Defence Staff.

- Torture is a criminal offence in Canada that has extraterritorial application. The *Criminal Code*'s provisions governing secondary liability also prohibit aiding and abetting the commission of torture, counselling the commission of torture whether or not the torture is committed, conspiracy to commit torture, attempting to commit torture, and being an accessory after the fact to torture.
- More broadly, section 7 of the *Canadian Charter of Rights and Freedoms* guarantees that "everyone has the right to life, liberty, and security of the person." Section 12 of the *Charter* prohibits "any cruel and unusual treatment or punishment," which Canadian courts have described as behaviour "so excessive as to outrage the standards of decency." This behaviour includes torture and other cruel, inhuman, or degrading treatment or punishment.

Definitions

- "Mistreatment" means torture or other cruel, inhuman, or degrading treatment or punishment.
- "Substantial risk" is a personal, present, and foreseeable risk of mistreatment.
 - In order to be "substantial," the risk must be real and must be based on something more than mere theory or speculation.
 - In most cases, the test of a substantial risk of mistreatment will be satisfied when it is more likely than not that there will be mistreatment. However, the "more likely than not" test should not be applied rigidly because in some cases, particularly where the risk is of severe harm, the "substantial risk" standard may be satisfied at a lower level of probability.

Information Sharing Principles

- Sharing information with foreign entities is an integral part of the mandates of Canadian intelligence and law enforcement authorities. It is also a formal obligation pursuant to Canada's adoption of various international resolutions and agreements.
- In sharing information, departments and agencies must act in a manner that complies with Canada's laws and legal obligations.
- Departments and agencies must assess and mitigate potential risks of sharing information in ways that are consistent with their unique roles and responsibilities.
- Departments and agencies must also assess the accuracy and reliability of information received, and properly characterize this information in any further dissemination.
- The approval level that departments and agencies require in order to share information must be proportionate to the risk of mistreatment that may result: the greater the risk, the more senior the level of approval required.

s.69(1)(g) re (c)

- Departments and agencies also have a responsibility to keep their respective Ministers generally informed about their information sharing practices.

Decision Making Process

- Departments and agencies are responsible for establishing approval levels that are proportionate to the risks in sharing information with foreign entities. This Framework only applies when there is a substantial risk of mistreatment of an individual.
- When there is a substantial risk that sending information to, or soliciting information from, a foreign entity would result in the mistreatment of an individual, and it is unclear whether that risk can be mitigated through the use of caveats or assurances, the matter will be referred to the responsible Deputy Minister or Agency Head for decision.
- In making his or her decision, the Deputy Minister or Agency Head will normally consider the following information, all of which must be properly characterized in terms of its accuracy and reliability:
 - the threat to Canada's national security or other interests, and the nature and imminence of that threat;
 - the importance of sharing the information, having regard to Canada's national security or other interests;
 - the status of the relationship with the foreign entity with which the information is to be shared, and an assessment of the human rights record of the foreign entity;
 - the rationale for believing that there is a substantial risk that sharing the information would lead to the mistreatment of an individual;
 - the proposed measures to mitigate the risk, and the likelihood that these measures will be successful (including, for example, the foreign entity's record in complying with past assurances, and the capacity of those government officials to fulfil the proposed assurance);
 - the views of the Department of Foreign Affairs and International Trade (DFAIT); and
 - the views of other departments and agencies, as appropriate, as well as any other relevant facts that may arise in the circumstances.
- The responsible Deputy Minister or Agency Head may refer the decision whether or not to share information with the foreign entity to his or her Minister, in which case the Minister will be provided with the information described above.
- The Deputy Minister/Agency Head or Minister shall authorize the sharing of information with the foreign entity only in accordance with Canada's legal obligations.

s.69(1)(g) re (c)

Support

- To help ensure a consistent understanding of the risks of sharing information with foreign entities, DFAIT will continue to make its country human rights reports available to the intelligence and law enforcement community.

Implementation

- Given the different mandates of departments and agencies, the Framework will be operationalized through individual Ministerial directions.

s.69(1)(g) re (c)

UNCLASSIFIED

**Ministerial Direction to the Canadian Security Intelligence Service:
Information Sharing With Foreign Entities**¹

In the current threat environment, terrorism is the top national security priority of the Government of Canada. In this context, it is essential that the Canadian Security Intelligence Service (CSIS) is able to maintain strong relationships with foreign entities, and can share information with them on both a routine and an urgent basis. CSIS must also be able to quickly share information with other key domestic stakeholders, including federal departments and agencies that have the mandate and responsibility to respond to serious threats before they materialize.

The following Ministerial Direction provides guidance to the Director of CSIS, pursuant to section 6(2) of the *CSIS Act*, on information sharing with foreign entities.

1. Canada's Legal Obligations

Sharing information with foreign entities is an integral part of CSIS' mandate. It is also a formal obligation pursuant to Canada's adoption of various international resolutions and agreements.

The Government of Canada opposes in the strongest possible terms the mistreatment of any individual by any foreign entity for any purpose. The Government also has a duty to its own citizens and to its allies to prevent individuals engaging in threat related activities from causing harm, whether in Canada or in a foreign country.

The Government of Canada does not condone the use of torture or other unlawful methods in responding to terrorism and other threats to national security. The Government is committed to pursuing a principled and proportionate response to these threats, while promoting and upholding the values Canada seeks to protect.

Canada is a party to a number of international agreements that prohibit torture and other forms of cruel, inhuman, or degrading treatment or punishment. These include the *International Covenant on Civil and Political Rights* and the *Convention Against Torture and Other Cruel, Inhumane, or Degrading Treatment or Punishment (CAT)*. The *CAT* requires state parties to criminalize all instances of torture, and to take effective measures to prevent torture and other cruel, inhuman, or degrading treatment or punishment in any territory under their jurisdiction.

Torture is a criminal offence in Canada that has extraterritorial application. The *Criminal Code*'s provisions governing secondary liability also prohibit aiding and abetting the commission of torture, counselling the commission of torture whether or not the torture is committed, conspiracy to commit torture, attempting to commit torture, and being an accessory after the fact to torture.

¹ This Direction would not change existing legal authorities for sharing information with foreign entities. Although the term, foreign entity, has not been formally defined, it primarily refers to foreign government agencies and militaries. The term may also refer to military coalitions, alliances, and international organizations.

UNCLASSIFIED

More broadly, section 7 of the *Canadian Charter of Rights and Freedoms* guarantees that “everyone has the right to life, liberty, and security of the person.” Section 12 of the *Charter* prohibits “any cruel and unusual treatment or punishment,” which Canadian courts have described as behaviour “so excessive as to outrage the standards of decency.” This behaviour includes torture and other cruel, inhuman, or degrading treatment or punishment.

2. Definitions

“Mistreatment” means torture or other cruel, inhuman, or degrading treatment or punishment.

“Substantial risk” is a personal, present, and foreseeable risk of mistreatment.

- In order to be “substantial,” the risk must be real and must be based on something more than mere theory or speculation.
- In most cases, the test of a substantial risk of mistreatment will be satisfied when it is more likely than not that there will be mistreatment. However, the “more likely than not” test should not be applied rigidly because in some cases, particularly where the risk is of severe harm, the “substantial risk” standard may be satisfied at a lower level of probability.

3. Information Sharing Principles

Sharing information with foreign entities is an integral part of CSIS’ mandate. It is also a formal obligation pursuant to Canada’s adoption of various international resolutions and agreements.

In sharing information, CSIS must act in a manner that complies with Canada’s laws and legal obligations. It is to avoid any complicity in mistreatment by foreign entities.

CSIS must assess and mitigate potential risks of sharing information in ways that are consistent with its unique role and responsibilities.

CSIS must also assess the accuracy and reliability of information received, and properly characterize this information in any further dissemination. It must have in place reasonable and appropriate measures to identify information that is likely to have been derived from mistreatment.

The approval level that CSIS requires in order to share information must be proportionate to the risk of mistreatment that may result: the greater the risk, the more senior the level of approval required.

CSIS also has a responsibility to keep the Minister of Public Safety generally informed about its information sharing practices.

UNCLASSIFIED

4. Decision Making Process When There Is A Substantial Risk of Mistreatment In Sharing Information

Except when there is a substantial risk, CSIS is responsible for establishing approval levels that are proportionate to the risks in sharing information with foreign entities. The following decision making process applies when there is a substantial risk of mistreatment of an individual.

When there is a substantial risk that sending information to, or soliciting information from, a foreign entity would result in the mistreatment of an individual, and it is unclear whether that risk can be mitigated through the use of caveats or assurances, the matter will be referred to the Director for decision.

In making his or her decision, the Director will normally consider the following information, all of which must be properly characterized in terms of its accuracy and reliability:

- the threat to Canada's national security or other interests, and the nature and imminence of that threat;
- the importance of sharing the information, having regard to Canada's national security or other interests;
- the status of the relationship with the foreign entity with which the information is to be shared, and an assessment of the human rights record of the foreign entity;
- the rationale for believing that there is a substantial risk that sharing the information would lead to the mistreatment of an individual;
- the proposed measures to mitigate the risk, and the likelihood that these measures will be successful (including, for example, the foreign entity's record in complying with past assurances, and the capacity of those government officials to fulfil the proposed assurance);
- the views of the Department of Foreign Affairs and International Trade (DFAIT); and
- the views of other departments and agencies, as appropriate, as well as any other relevant facts that may arise in the circumstances.

The Director may refer the decision whether or not to share information with the foreign entity to the Minister of Public Safety, in which case the Minister will be provided with the information described above.

The Director or Minister of Public Safety shall authorize the sharing of information with the foreign entity only in accordance with this Direction and with Canada's legal obligations.

5. Use Of Information That May Have Been Derived Through Mistreatment By Foreign Entities

As a general rule, CSIS is directed to not knowingly rely upon information derived through mistreatment by foreign entities.

UNCLASSIFIED

In exceptional circumstances, CSIS may need to share the most complete information in its possession, including information from foreign entities that was likely derived through mistreatment, in order to mitigate a serious threat of loss of life, injury, or substantial damage or destruction of property before it materializes. In such rare circumstances, ignoring such information solely because of its source would represent an unacceptable risk to public safety.

When there is a serious risk of loss of life, injury, or substantial damage or destruction of property, CSIS will make the protection of life and property its priority. If CSIS needs to share information that was likely derived through mistreatment with appropriate authorities in order to mitigate a serious threat, the matter will be referred to the Director. All decisions shall be made only in accordance with this Direction and with Canada's legal obligations.

CSIS will take all reasonable measures to reduce the risk that any action on its part might promote or condone the use of mistreatment. Measures will also be taken to ensure that the information which may have been derived through mistreatment is accurately described, and that its reliability is properly characterized. Caveats will be imposed on information shared with both domestic and foreign recipients to restrict their use of information, as appropriate.

6. Support

To help ensure a consistent understanding of the risks of sharing information with foreign entities, DFAIT will continue to make its country human rights reports available to the intelligence and law enforcement community.

NON CLASSIFIE

Instruction du ministre à l'intention du Service canadien du renseignement de sécurité sur l'échange d'information avec des organismes étrangers¹

Compte tenu des menaces actuelles, la lutte contre le terrorisme est la plus grande priorité du gouvernement du Canada en matière de sécurité nationale. Dans ce contexte, il est essentiel que le Service canadien du renseignement de sécurité (SCRS) puisse entretenir des relations solides avec les organismes étrangers et qu'il puisse échanger avec eux de l'information de manière courante ou urgente. Le SCRS doit également pouvoir échanger rapidement de l'information avec des intervenants clés au pays, y compris les ministères et organismes fédéraux qui ont pour mandat et responsabilité de combattre les menaces graves avant qu'elles ne se concrétisent.

La présente instruction du ministre, établit conformément au paragraphe 6(2) de la *Loi sur le SCRS*, apporte au directeur du SCRS des directives sur l'échange d'information avec des organismes étrangers.

1. Obligations juridiques du Canada

L'échange d'information avec des organismes étrangers fait partie intégrante du mandat du SCRS. Il s'agit également d'une obligation découlant de l'adoption par le Canada de diverses résolutions et ententes internationales.

Le gouvernement du Canada s'oppose catégoriquement à ce que de mauvais traitements soient infligés à quiconque par un organisme étranger, quel que soit le but visé. Il a également le devoir envers ses citoyens et ses alliés d'empêcher les individus qui participent à des activités représentant une menace de causer du tort au Canada ou à l'étranger.

Le gouvernement du Canada s'oppose à l'utilisation de la torture et d'autres méthodes illicites pour combattre le terrorisme et les autres menaces à la sécurité nationale. Il est déterminé à recourir à une intervention proportionnelle et fondée sur des principes pour faire face aux menaces, tout en défendant les valeurs que le Canada cherche à protéger.

Le Canada est partie à un certain nombre d'ententes internationales qui interdisent la torture et les autres formes de peines et de traitements cruels, inhumains ou dégradants. Il est par exemple partie au *Pacte international relatif aux droits civils et politiques* et à la *Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants*. Cette convention exige que les États parties criminalisent toutes les formes de torture et prennent des mesures concrètes pour empêcher que des actes de torture ou que des peines ou des traitements cruels, inhumains ou dégradants soient infligés dans tout territoire relevant de leur compétence.

Au Canada, la torture est une infraction pénale de portée extraterritoriale. Les dispositions sur la responsabilité subsidiaire du *Code criminel* interdisent également aux personnes d'aider ou

¹ Le Cadre ne change rien aux obligations juridiques existantes en matière d'échange d'information avec des entités étrangères. Le terme entité étrangère, même s'il n'est pas défini de manière officielle, désigne d'abord et avant tout les organismes et services militaires étrangers. Il peut aussi s'appliquer à des coalitions militaires, des alliances et des organisations internationales.

NON CLASSIFIE

d'encourager la commission d'un acte de torture, de conseiller la torture peu importe si un acte de torture est commis, de tenter ou de comploter de commettre un acte de torture ou d'être complice après le fait.

De façon plus générale, l'article 7 de la *Charte canadienne des droits et libertés* garantit que « chacun a droit à la vie, à la liberté et à la sécurité de sa personne ». L'article 12 de la Charte protège contre « tous traitements ou peines cruels et inusités », lesquels ont été définis par les tribunaux canadiens comme un comportement « excessif au point de ne pas être compatibles avec la dignité humaine », ce qui comprend la torture et les autres formes de peines ou de traitements cruels, inhumains ou dégradants.

2. Définitions

« Mauvais traitement » s'entend de la torture ou de tout autre peine ou traitement cruel, inhumain ou dégradant.

« Risque substantiel » signifie qu'une personne court un risque personnel, actuel et prévisible de subir des mauvais traitements.

- Pour être « substantiel », le risque doit être réel et ne pas être uniquement théorique ou spéculatif.
- Dans la plupart des cas, l'existence d'un risque substantiel est établie s'il est « plus probable qu'improbable » que des mauvais traitements soient infligés à la personne. Cependant, ce critère ne doit pas être appliqué de manière absolue puisqu'il est possible dans certains cas d'établir l'existence d'un « risque substantiel » à un niveau de probabilité inférieure, surtout si une personne risque de subir un préjudice grave.

3. Principes liés à l'échange d'information

L'échange d'information avec des organismes étrangers fait partie intégrante du mandat du SCRS. Il s'agit également d'une obligation découlant de l'adoption par le Canada de diverses résolutions et ententes internationales.

Lorsqu'il échange de l'information, le SCRS doit respecter les lois et les obligations juridiques du Canada. Il doit éviter également d'être complice de mauvais traitements infligés par des organismes étrangers.

Le SCRS doit évaluer et atténuer les risques qui pourraient être liés à l'échange d'information en tenant compte des responsabilités et rôles qui lui sont propres.

Le SCRS doit également évaluer l'exactitude et la fiabilité de l'information qu'il reçoit et qualifier adéquatement l'information avant de la transmettre à d'autres. Il doit avoir en place des mesures raisonnables et appropriées pour cerner l'information qui a probablement été obtenue à la suite de mauvais traitements.

NON CLASSIFIE

Le niveau d'approbation requis pour échanger de l'information doit être proportionnel au risque de mauvais traitements. Plus le risque est grand, plus le niveau d'approbation est élevé.

Le SCRS est tenu d'informer de manière générale le ministre de la Sécurité publique de ses pratiques en matière d'échange d'information.

4. Processus décisionnel lorsque l'échange d'information comporte un risque substantiel de mauvais traitements

Sauf dans les cas où il existe un risque substantiel, le SCRS détermine les niveaux d'approbation requis en fonction des risques liés à l'échange de l'information avec des organismes étrangers. Le présent processus décisionnel s'applique uniquement lorsqu'il existe un risque substantiel que des mauvais traitements soient infligés à une personne.

Si le fait de communiquer de l'information à un organisme étranger ou d'obtenir de l'information de celui-ci soulève un risque substantiel que des mauvais traitements soient infligés et s'il n'est pas certain que le risque peut être atténué en utilisant des restrictions ou en obtenant des garanties, la décision d'échanger de l'information doit être rendue par le directeur.

Dans sa décision, le directeur tient normalement compte des renseignements ci-dessous, qui doivent tous être accompagnés d'une mention précisant leur exactitude et fiabilité :

- la menace pour la sécurité nationale et les intérêts canadiens, ainsi que la nature et le caractère imminent de cette menace;
- l'importance de l'échange de l'information en ce qui concerne la protection de la sécurité nationale ou d'autres intérêts canadiens;
- la relation entre le Canada et l'organisme étranger visé, et une évaluation du bilan en matière de respect des droits de la personne de cet organisme;
- les raisons de croire que l'échange de l'information pose un risque substantiel que des mauvais traitements soient infligés à une personne;
- les mesures proposées pour atténuer le risque et la probabilité que ces mesures soient efficaces (par exemple, le respect par le passé des garanties offertes par l'organisme étranger et la capacité des représentants du gouvernement de s'en acquitter);
- les vues du ministère des Affaires étrangères et du Commerce international;
- les vues d'autres ministères et organismes, au besoin, et tout autre fait pertinent dans les circonstances.

Le directeur peut demander au ministre de la Sécurité publique de décider s'il y a lieu d'échanger de l'information avec l'organisme étranger. Le cas échéant, les renseignements énumérés précédemment sont communiqués au ministre.

Le directeur ou encore le ministre de la Sécurité publique autorise l'échange de l'information avec l'organisme étranger seulement si cela ne contrevient pas à la présente instruction et aux obligations juridiques du Canada.

NON CLASSIFIE

5. Utilisation de l'information ayant peut-être été obtenue à la suite de mauvais traitements infligés par des organismes étrangers

Règle générale, il est interdit au SCRS d'utiliser sciemment de l'information obtenue à la suite de mauvais traitements infligés des organismes étrangers.

Dans des circonstances exceptionnelles, le SCRS peut être appelé à communiquer toute l'information en sa possession, y compris celle qui provient d'un organisme étranger et qui a été vraisemblablement obtenue à la suite de mauvais traitements, afin d'atténuer une menace sérieuse pouvant entraîner des pertes de vie, des blessures, des dommages graves ou la destruction de biens, et l'empêcher de se concrétiser. Dans de telles rares circonstances, le fait de ne pas tenir compte de cette information seulement en raison de la source constitue un risque inacceptable pour la sécurité publique.

En cas de menace sérieuse pouvant entraîner des pertes de vie, des blessures, des dommages graves ou la destruction de biens, le SCRS accordera la priorité à la protection de la vie et des biens. Dans le cas où le SCRS doit échanger de l'information vraisemblablement obtenue à la suite de mauvais traitements avec les responsables autorisées pour atténuer une menace sérieuse, il incombe au directeur de prendre une décision à cet égard. D'ailleurs, toutes les décisions doivent respecter la présente instruction et les obligations juridiques du Canada.

Le SCRS prend des mesures raisonnables pour atténuer le risque que les mesures qu'il mettra en place aient pour effet de préconiser ou d'autoriser les mauvais traitements. Il doit également prendre des mesures pour décrire avec exactitude les informations obtenues à la suite de mauvais traitements et pour en caractériser la fiabilité. Le SCRS impose l'utilisation des restrictions en ce qui concerne à l'échange d'information avec des organismes canadiens ou étrangers afin d'en limiter l'utilisation, selon le cas.

6. Soutien

Pour assurer une compréhension uniforme des risques liés à l'échange d'information avec des organismes étrangers, le MAECI continuera de mettre à la disposition des organismes du renseignement et d'application de la loi ses rapports sur le respect des droits de la personne par les pays.



Minister of Public Safety

Ministre de la Sécurité publique

Ottawa, Canada K1A 0P8

UNCLASSIFIED

JUL 28 2011

Mr. Richard Fadden
Director
Canadian Security Intelligence Service
1941 Ogilvie Road
Gloucester, Ontario K1J 1B7

Dear Mr. Fadden,

I previously indicated to you that officials in Public Safety Canada were preparing more comprehensive guidance on the Canadian Security Intelligence Service's (CSIS) information sharing practices.

Please find attached my new direction to CSIS on "Information Sharing with Foreign Entities."

This Ministerial Direction replaces the direction issued in 2009 on "Information Sharing with Foreign Agencies," as well as a copy of my letter to you dated December 7, 2010.

Yours sincerely,

A handwritten signature in black ink that reads "Vic Toews".

Vic Toews, P.C., Q.C., M.P.

Enclosure

Canada

000475



Minister of Public Safety

Ministre de la Sécurité publique

Ottawa, Canada K1A 0P8

UNCLASSIFIED

AUG 05 2011

The Honourable Arthur Porter, P.C., M.D.
Chair
Security Intelligence Review Committee
Jackson Building
122 Bank Street
Ottawa, Ontario K1P 5N6

Dear Mr. Porter,

Pursuant to sub-section 6(2) of the *Canadian Security Intelligence Service (CSIS) Act*, I would like to provide you with a copy of my new direction to CSIS on "Information Sharing with Foreign Entities."

This Ministerial Direction replaces the direction issued in 2009 on "Information Sharing with Foreign Agencies," as well as a copy of my letter to the Director of CSIS dated December 7, 2010.

Yours sincerely,

A handwritten signature in black ink that reads 'Vic Toews'.

Vic Toews, P.C., Q.C., M.P.

Enclosure

Canada

000476



Minister of Public Safety

Ministre de la Sécurité publique

Ottawa, Canada K1A 0P8

UNCLASSIFIED

JUL 28 2011

Ms. Eva Plunkett
Inspector General of CSIS
Office of the Inspector General
340 Laurier Avenue West
Ottawa, Ontario K1A 0P8

Dear Ms. Plunkett,

I would like to provide you with a copy of my new direction to the Canadian Security Intelligence Service (CSIS) on "Information Sharing with Foreign Entities."

This Ministerial Direction replaces the direction issued in 2009 on "Information Sharing with Foreign Agencies," as well as a copy of my letter to the Director of CSIS dated December 7, 2010.

Yours sincerely,

A handwritten signature in black ink that reads "Vic Toews".

Vic Toews, P.C., Q.C., M.P.

Enclosure

Canada

000477



Minister of Public Safety

Ministre de la Sécurité publique

Ottawa, Canada K1A 0P8

UNCLASSIFIED

Mr. Richard Fadden
Director
Canadian Security Intelligence Service
1941 Ogilvie Road
Gloucester, Ontario K1J 1B7

Dear Mr. Fadden,

I previously indicated to you that officials in Public Safety Canada were preparing more comprehensive guidance on the Canadian Security Intelligence Service's (CSIS) information sharing practices.

Please find attached my new direction to CSIS on "Information Sharing with Foreign Entities."

This Ministerial Direction replaces the direction issued in 2009 on "Information Sharing with Foreign Agencies," as well as my letter to you on December 7, 2010.

Yours sincerely,

a copy of dated.

X

Vic Toews, P.C., Q.C., M.P.

Enclosure

Canada



Minister of Public Safety

Ministre de la Sécurité publique

Ottawa, Canada K1A 0P8

UNCLASSIFIED

The Honourable Arthur Porter, P.C., M.D.
Chair
Security Intelligence Review Committee
Jackson Building
122 Bank Street
Ottawa, Ontario K1P 5N6

Dear Mr. Porter,

Pursuant to sub-section 6(2) of the *Canadian Security Intelligence Service (CSIS) Act*, I would like to provide you with a copy of my new direction to CSIS on "Information Sharing with Foreign Entities."

This Ministerial Direction replaces the direction issued in 2009 on "Information Sharing with Foreign Agencies," as well as my letter to the Director of CSIS ~~on~~ *dated* December 7, 2010.

a copy of

Yours sincerely,

Vic Toews, P.C., Q.C., M.P.

Enclosure

Canada

000479



Minister of Public Safety

Ministre de la Sécurité publique

Ottawa, Canada K1A 0P8

UNCLASSIFIED

Ms. Eva Plunkett
Inspector General of CSIS
Office of the Inspector General
340 Laurier Avenue West
Ottawa, Ontario K1A 0P8

Dear Ms. Plunkett,

I would like to provide you with a copy of my new direction to the Canadian Security Intelligence Service (CSIS) on “Information Sharing with Foreign Entities.”

This Ministerial Direction replaces the direction issued in 2009 on “Information Sharing with Foreign Agencies,” as well as my letter to the Director of CSIS on dated December 7, 2010.

*↑
a copy of*

Yours sincerely,

Vic Toews, P.C., Q.C., M.P.

Enclosure

Canada