



## **THREE ASPECTS OF ACCOUNTABILITY FOR THE CANADIAN INTELLIGENCE PUBLIC SERVICE**

**Date:** November 17, 2023

*Disclaimer: This briefing note contains the encapsulation of views presented by the speaker and does not exclusively represent the views of the Canadian Association for Security and Intelligence Studies.*

### **KEY EVENTS**

On November 17, 2023, a Senior CSIS Executive presented *Three Aspects of Accountability for the Canadian Public Service* for this year's West Coast Security Conference. The presentation was followed by a question-and-answer period with questions from the audience and CASIS Vancouver Executives. The key points discussed were the themes of accountability in the Canadian Security Intelligence Service in relation to the federal court, to Canadian citizens, and within the governmental and academic spheres.

### **NATURE OF DISCUSSION**

The theme of accountability relates to accuracy of intelligence, justifying the uses and forms of intelligence in the public sphere, and acting as relevant to the government. The preparation of accountable national security products is the primary responsibility of the Canadian Security Intelligence Service (CSIS), which is required to act lawfully and ethically, and is guided by principles that all employees follow. Accountability to Canadians is critical in building public trust and requires transparency, even in the face of negative topics and media coverage. The Service is not a secret organisation and discloses the actions it may legally take within the CSIS Act.

### **BACKGROUND**

#### **Presentation**

The CSIS Senior Executive began by noting that he chose to focus on three main themes of accountability (among others) within a Canadian intelligence agency takes three main forms: firstly, towards the federal court; secondly, relating to accountability to Canadian citizens and public discourse; and lastly, within the political and academic spheres. The speaker stated that these three approaches pose potential consequences in national security outcomes and require continuous reform and enhancement to promote a reliable public service and supporting the protection, prosperity, and safety of Canadians.

The speaker explained that the Federal Court represents an essential pillar of lawful activities, as issues surrounding the evolution of intelligence agencies' relationship with the FC are mainly affected by the topic of interference with privacy, including for example in relation to physical surveillance in public spaces. The lawfulness of electronic intercepts and data collection is also commonly scrutinised amidst the modern technological era. These concerns inspired legislative change, in order to continue to comply with the fundamental principle that the state cannot use information that has been obtained unlawfully to achieve an objective. The Service is under an obligation to the court to present all information and the methods under which it was obtained, as to allow the court to make a judgement on the relevance of the information and applicability of the law. Essentially, the relationship between the Service and the court propelled structural and behavioural changes as well as broadly enhanced skills, competencies, and attention to rigour. These changes affected how information is gathered in order to prevent the collection of information that is non-compliant.

The speaker spoke on accountability to Canadians and public trust, citing that notions of transparency guide the service to speak more openly even in the face of difficult topics or negative media coverage. They emphasised that the Service is not a secret organisation and outlines the scope of its actions with the CSIS Act. The public is informed that the Service produces national security products, acts lawfully and ethically, and is guided by principles.

The speaker then defined CSIS' accountability to the government as producing accurate and relevant intelligence, and there is an ongoing discussion in academia on the definition of intelligence, noting efforts to evolve the term "intelligence" from being regarded as only a product to also encompassing the notion of a capability to provide a cognitive advantage to stakeholders. This may, as a consequence, provoke a need to adjust performance management in the domain.

The speaker discussed the role of review bodies and the importance of preserving their independence and efficiency as a means of building trust with Canadian citizens, especially within an era of fraying public trust in government institutions. An area of emphasis is the role of employees, who must balance an ability to seek out and gather information in sufficient time to respond to the requests of review bodies, while working not to divert resources from core operations. Additionally, information management is a highly relevant domain and illustrates that information must be handled and stored properly to support employees who do redactions and sharing of information. In this process, friction points are expected to arise and be met by the Service, which does not always agree with all review body

recommendations. Ultimately, all parties are striving to work together for the safety of Canadians.

### **Question and Answer**

*What does it look like to instil trust, create a culture of initiative and innovation, and connect with individuals, coming from an intelligence agency?*

Briefly put, we must model the behaviour that we want to see across departments, divisions, and coming from all employees.

*How does this relate back to the audience and to serving clients? How do you create a system to serve the client in a trustworthy manner, as to do what an intelligence review needs to operate effectively?*

While not all ministers read every product, other members of the public service take on this responsibility given that there is a response that needs to happen; whether we agree or disagree, we need to formulate a response as this process is part of the internal mechanism. It gives us a good indication of where there is risk for us as an institution or factors that we may need to address. Whether it is through the minister, legislative change, or some other policy, it must be identified.

*If we are looking at a country with a judiciary that is not as robust, how would you get around this to build effective oversight in intelligence review bodies?*

In Canada, the courts have been very important in encouraging, just as much as review agencies, public discourse on accountability. From an intelligence agency perspective, we operate at the point where the intersection of the government requirement and responsibility to protect citizens from harm meets the responsibility to protect from citizens' privacy interests as well and will always be on this cusp, making it critical that review agencies help us know where we need to be.

### **KEY POINTS OF DISCUSSION**

- Accountability relates to the accuracy of intelligence, the ability for intelligence to be justified in the public sphere, and being of high relevance to the government.
- The theme of accountability for the Service relates to the Federal Court and its role, accountability to Canadians and public discourse, and to the intersection of the government and the academic world.

- Amidst legislative change, public scrutiny, and an evolving definition of intelligence, the core objective of the service continues to be the safeguarding of Canadians.
- Maintaining the independence of review bodies is critical to support public trust and transparency.



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