



## Does Canada Need a Foreign Intelligence Agency?

Daniel Livermore

Among the items that have slipped quietly from the public agenda in recent months has been the federal government's commitment to the creation of a Canadian foreign intelligence agency. It is unclear why this issue has dropped off the radar screen, but the result – preserving Canada's existing intelligence structure – is the best option for Canada at this time.

The idea of beefing up Canada's foreign intelligence capacity makes sense in principle. Increasing knowledge of what transpires beyond our borders can only help to inform foreign and domestic policymaking.

But when the question turns to the creation of a new foreign intelligence agency, two important questions arise. Is such an agency the right vehicle for gathering more information? And if it is, do the right structures exist in the Canadian government to run a foreign intelligence agency effectively and with a minimum of operational difficulties, and to ensure that it is held to account and committed to the rule of law?

### At a glance...

- *Creating a foreign intelligence agency for Canada would increase the expenses and risks of information collection by the federal government. Before giving this option serious consideration, Ottawa should conduct a rigorous assessment of its information requirements.*
- *Without such an assessment, the case for creating such an agency is weak: Canada already meets most of its intelligence needs from "open" sources, reports from Canadian diplomatic missions, and information provided by friendly countries.*
- *If there were a demonstrated need for a foreign intelligence agency, crucially important but difficult issues of management, oversight and accountability would still need to be addressed.*
- *All things considered, the status quo option of preserving Canada's existing intelligence structures appears to be the best option.*



## ***Needed: A Hard-Headed Assessment of Information Needs, Costs and Benefits***

The first question regarding our information requirements is an important one. However, the answers are often obscured by special interests and special pleading, often by those seeking to widen their own bureaucratic horizons. In looking at our information requirements, the Canadian government must be ruthlessly analytical: what kinds of information does the Canadian government need to collect, and how should these needs be balanced against the increased costs and risks that would come with the creation of a greater foreign intelligence capacity?

Most intelligence professionals (especially those involved in the analysis, as opposed to the collection, of intelligence) would readily acknowledge that 90 percent of all information finding its way into classified reporting is essentially unclassified, drawn from “open sources.” A huge quantity of basic information on global events is available from media reporting, think tank and academic analyses, and incidental contacts. Any intelligence organization claiming to derive the bulk of its classified reporting exclusively or mainly from highly sensitive sources is either wanting in competence or unduly protective about its inner workings.

Open-source material has two distinct advantages: it covers a huge swath of information, and it is relatively inexpensive. Precisely for these reasons, major intelligence organizations the world over, facing funding pressures and confronting new demands, are increasingly emphasizing open sources as a basic research tool.

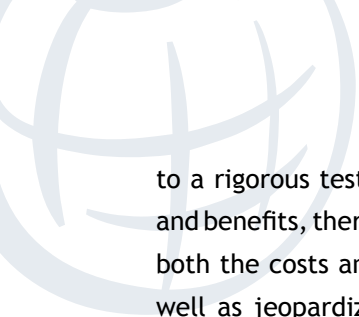
Most of the remaining 10 percent of classified reporting comes from Canadian diplomats and is based on sensitive sources or inside information that is neither covert nor intelligence-based. Most of this information is not highly classified and is regularly distributed within relevant governmental networks.

Canada already has extensive diplomatic reporting capabilities in its global network of roughly 170 diplomatic missions.

Diplomats gather information from friendly interlocutors inside a variety of centres of power and influence abroad. In doing so, they do not simply duplicate open-source media reports. Rather, they specialize in interpreting a number of high priority themes, based on privileged contacts with real decision-makers. Embassy reporting is also crucial in keeping a quiet dialogue open with groups abroad where open dialogue may not be possible for a variety of reasons. Such reports tend to be classified, in part to protect these valued contacts.

Only by assessing the government’s information requirements, and comparing those requirements against what can be obtained through both open-source and diplomatic reporting, is it possible to determine whether we need other avenues of information collection. The incremental gain in information that an enhanced Canadian foreign intelligence capability would generate would be very small relative to the information currently gained through open sources and diplomatic collection or supplied already by the intelligence agencies of other “friendly” countries. Furthermore, the cost of this incremental gain in knowledge would be high. Although maintaining Canada’s network of diplomatic missions is not cheap, the covert collection of intelligence tends to be considerably more expensive. In fact, covert intelligence is the most expensive type of information to gather because of the many steps through which intelligence reports evolve, from payment of sources, to translations of reporting and collections, to editing intelligence products.

Another way of asking the same question is to consider what information we need but that we cannot obtain through existing methods and arrangements. This question has never been seriously explored in Canada. Yet, until our information requirements have been put



to a rigorous test, including careful analyses of costs and benefits, there will be no justification for increasing both the costs and risks of information collection, as well as jeopardizing Canada's reputation abroad, by creating a foreign intelligence capability for which there may well be no obvious need or demand.

Nor should we assume that we could even get useful new information with greater investments in intelligence machinery. Certain information is inherently difficult to obtain: for example, the inner workings of terrorist organizations, leadership discussions within a drug cartel, or the candid intentions of some key leaders abroad. Other countries have frequently been unable to get this type of information. Why would a Canadian capability succeed, where other well-funded organizations have largely failed? In short, before moving ahead with any significant expansion or reform of Canada's intelligence machinery, there must be a reasonable expectation that any such changes would "deliver the goods."

### ***Principles of Oversight and Management***

For the sake of argument, let us assume that the Canadian government has a clear notion of its information requirements, and that it fully understands what can be obtained through current open-source and diplomatic capacities, and what needs to be gathered by intelligence means. Let us further assume that a reasonable calculation has been made that such information is, indeed, obtainable. If and when we were to reach this point, it would then be time to address the second crucial question raised above: whether we have the right structures within the Canadian government to run a foreign intelligence agency effectively and with a minimum of operational difficulties, and to ensure its accountability in a democratic society, committed to the rule of law.

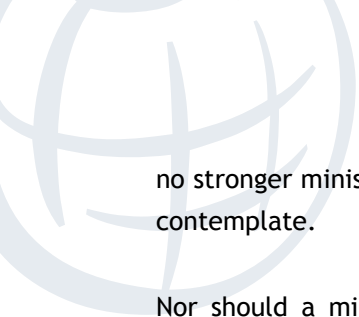
Governance and structure are crucial public policy considerations, despite the paucity of media reporting on them in recent years and the relative lack of serious

research laying out the case to the government and others. With some exceptions, the Canadian debate has been weak, animated by exaggerated expectations, or by the claims of inside professionals who have institutional axes to grind. An informed debate should start, instead, with core principles of governance for Canada's intelligence community.

There are at least four such principles:

***Principle 1: Prime Ministerial responsibility.*** In every democratic country in which there is a foreign intelligence capability operating abroad in the shadows of legality and in high-risk environments, the head of state or head of government accepts ultimate responsibility for its actions. In the Canadian case, it means that the Prime Minister would need to approve all foreign operations. It would also mean that there could be no doctrine of "deniability" if things go wrong. If a Canadian government is unwilling to accept this basic operational tenet, it is in the wrong business. It should go no further with the idea of doing abroad things for which the head of government refuses to accept accountability before the Canadian people.

***Principle 2: Multi-ministerial responsibility.*** Shared responsibility among key ministers, led by the Foreign Minister, is required in order to provide a further operational check on any foreign intelligence function. Foreign intelligence has many dimensions, ideally producing streams of reporting to various officials in the diplomatic service, intelligence agencies, police, customs, national security and other departments and agencies. There are serious operational issues in play at any given time, such as: when to mount foreign operations, how to conduct foreign operations, and how to balance risks against benefits. Responsibility for weighing these considerations cannot be borne by any single department of government. Nor should they be the responsibility of any single minister, which would be a recipe for a number of problems, ranging from non-cooperation with other departments to weaker ministers accepting the advice of senior officials that



no stronger minister or group of ministers would ever contemplate.

Nor should a minister of a domestic policy department lead a foreign intelligence function. Indeed, it is disturbing in the Canadian case that so few commentators have questioned the role of the Minister for Public Safety as the spokesperson on foreign intelligence matters. This is the wrong locus of discussion, led by the wrong department and the wrong minister. (Moreover, it is flagrantly inconsistent with the provisions of the Foreign Affairs Act.) A foreign intelligence function must be led by the Foreign Minister for one very simple reason: foreign policy coherence.

In contrast to domestic security intelligence information, which is gathered domestically and on occasion using foreign contacts, the role of foreign intelligence is to operate in an international environment in which Canada has many interests and obligations. It is a complex environment, in which the possibilities for conflicts among various interests are high and in which the cost of embarrassing failure is severe. Canadian public policy can benefit by the example of what the United Kingdom and Australia have had in place for decades: a system of leadership by the Foreign Minister in which the ministerial role is two-fold: the central figure in multi-ministerial discussion of foreign operations, and the person to whom the head of the foreign intelligence function reports.

**Principle 3: Appropriate review mechanisms.** Any future Canadian capability in this area would need to be subject to additional mechanisms of operational accountability, review and oversight appropriate to its foreign role, beyond those provided by prime ministerial and ministerial control. Oversight authorities would need to keep a close eye on several issues. Do appropriate political authorities authorize these operations? Do the operations respect procedures with respect to security, communications, the rights of Canadians abroad, inter-departmental

cooperation, Head of Mission authority, etc.? Are the operational risks adequately weighed and assessed against the potential benefits in terms of information acquired?

It is important to recognize that intelligence operations abroad are typically illegal in other countries. By definition they are functioning in a high-risk terrain, breaking the laws of other countries and seeking to do so with impunity in order to serve important Canadian interests. For these reasons, any review and oversight regimes for a foreign intelligence agency would differ substantially from the regimes that review both RCMP and CSIS accountability to Canadian laws and procedures.

**Principle 4: Adequate support structure.** The requirement for a support structure has rarely been addressed in the discussion of a possible foreign intelligence agency for Canada. Such organizational support has largely been assumed as a given, as if it were a peripheral function – especially by those who advocate an expansion of the Canadian Security Intelligence Service’s (CSIS) operations abroad, and who obscure the point that CSIS has no support capability for foreign operations. But as the American and British experiences indicate, the placement of personnel abroad is only the operational tip of a very large iceberg, with a ratio of at least ten people in headquarters for every one person with operational duties out of the country. Ensuring robust support is a key to success, safety and security, and it is an issue that requires serious consideration.

### **Options for Change**

Let us assume that the Canadian government has done all its homework and thought through the implications of all four of the principles listed above. What then would be the next steps for expanding or changing Canada’s foreign intelligence capabilities? What would be the main options, and what is the best way to proceed?



There are three principal options:

1. **Set up a Canadian foreign intelligence agency**, on an appropriate legislated basis, with its own budget and director, under the appropriate minister and as part of the appropriate department. This option has the virtue of clarity but little more to recommend it. A public debate over its legislative mandate would produce an array of justifiable concerns about what other countries' foreign intelligence agencies are doing in this age of combating terrorism. The budget for such an agency would be high, and it would take at least five years, if not longer, for such an entity to begin producing even a modest stream of useful reporting. It would never produce, nor would it ever come close to producing, enough intelligence to wean us from heavy dependence on the American CIA or the British SIS.

2. **Give the foreign intelligence function to CSIS**, as an add-on to current CSIS operations. This option has been advanced by current and former CSIS directors, as well as by the Minister of Public Safety. But it is probably the worst and most dangerous option, and one that would produce the least amount of useful information for the most cost and with the greatest potential for embarrassment to Canada. CSIS has limited experience in foreign operations and virtually no expertise, linguistic competencies or proven sensitivities to the international environment. It currently relies almost totally on the foreign ministry for what little support its liaison staff in the field now enjoy. It would need to create such a capability, at substantial cost and with little possibility of short-term success.

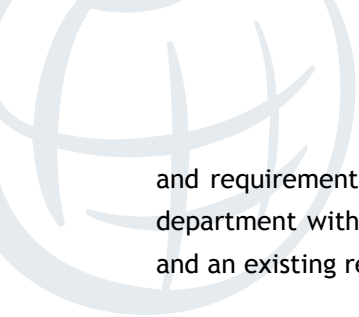
But more importantly, from a public policy point of view, blending a national security service with a foreign intelligence service is dangerous, placing too much power, with too much potential for things to go wrong, in one agency. We should learn from the British,

Australian, German, French and other examples, where the rigorous separation of foreign and domestic intelligence is the result of well-calculated design, clearly recognized in Canada in the 1980s when the Macdonald Commission Report advocated the creation of CSIS. Because domestic security-intelligence and foreign intelligence are two distinct and operationally different functions, democratic countries separate these functions as a basic principle of governance and create different accountability regimes for each.

In the Canadian case, we would also do well to look at the realities of CSIS's past performance. Over the years, CSIS has acquired the reputation of being the least collegial of Canada's security organizations. It would therefore require a major cultural shift to become a cooperative partner with other departments, such as Foreign Affairs. CSIS has no tradition of customer relations; a domestic security service does not have a "clientele" in the same sense that a foreign intelligence agency would. This problematic record of information sharing is particularly troubling since this is precisely the main function of a foreign intelligence agency. More fundamentally, an expanded CSIS role abroad, inevitably blurring the lines between domestic and foreign operations, would compromise what should be its primary mandate: domestic security.

With the first two options off the table, there is a third option that is both more modest and potentially more effective than either of the others, as well as more cost-effective in the long run.

3. **Build incrementally on current capabilities, but under the appropriate minister, with the appropriate reporting and accountability structures in the Privy Council Office, and with new inter-departmental authorities for cooperation and consultation.** In effect, this option calls for a client-driven approach to intelligence collection led by Foreign Affairs, where information needs are continually assessed



and requirements are weighed by the only Canadian department with an effective international presence and an existing reporting machinery.

Because Foreign Affairs already has an appropriate legislative basis for foreign intelligence, no new legislation or formal agency would be required. The main challenges would be to ensure clarity in lines of authority, additional resources in support of possible operations, and new lines of cooperation with other departments or agencies which might be partners in the task of gathering needed information abroad. The Privy Council Office, which has traditionally been the locus of intelligence coordination in Canada, could oversee the operational cooperation mandated to Foreign Affairs.

Starting slowly and building incrementally under a Foreign Affairs mandate has several virtues. It allows for a client-driven culture of intelligence collection to take hold, building capabilities over time based on a rigorous assessment of information needs. It controls resource demands at a time when anything costlier than an incremental option seems very remote. Tight coordination within the Foreign Affairs portfolio minimizes international risks, while cooperation with all relevant agencies allows innovative, creative and collegial approaches to intelligence collection through a variety of capabilities and means. Building a foreign intelligence capability under Foreign Affairs is the only option that can meet the challenges of costs, risk-management and inter-departmental coordination.

### ***The Best Option: No Immediate Change***

Where does this discussion leave us? On one hand, while it is undoubtedly true that we would benefit from more and better information on what is happening abroad, the case has yet to be made that our current sources of information – open-source materials and diplomatic reporting – are inadequate. We don't yet


know what we need to know. And even if we knew what we needed to know, we would not necessarily know how to go about getting it. Until the case has been made, the policy argument in favour of costlier, riskier means of acquiring additional information is not convincing.

Moreover, we currently lack the right structures, traditions and principles on which to build a foreign intelligence capability and run it effectively and free of operational difficulties. In a democratic society, moving ahead prematurely would not only be difficult. It would also be fraught with serious longer-term implications that are only now coming to light in other countries with inadequate governance and surveillance machinery.

If we look dispassionately and carefully at the options for change, there seems nothing wrong with the status quo. Indeed, it would be better to do nothing than to create a costly and quite likely ill-conceived foreign intelligence capability that would come back to haunt decision-makers and bureaucrats. Furthermore, sticking with the current system would be immeasurably preferable to a CSIS-add-on option, the most problematic of the options on the table. (If the current government has seen this proposal, and has qualms about the way ahead, its reticence is commendable.)

If we can judge by the absence of a vigorous public debate, Canadians have yet to see the need for an enhanced foreign intelligence capability. Not only is the case in favour inadequate. Those resources could be used for the many other things which Canada now needs in its foreign policy arsenal, including reinforcing Canada's reputation abroad as a reliable, cooperative international partner, enhancing our ability to provide development and humanitarian assistance using the full array of Canadian talents and capabilities, and restoring our cultural and information programs to

solidify relationships with a host of states who now miss us on the international stage. If and when a better foreign intelligence capability becomes a priority, it should be done right. The government's instinct to slow the pace on this issue may or may not be based on the appropriate considerations. But it is the right answer to a difficult problem.

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