



NATIONAL SECURITY AND PARLIAMENTARY REVIEW FOUR YEARS ON: IS IT WORKING?

Date: July 15, 2021

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 July 15, 2021, the Canadian Association for Security and Intelligence Studies (CASIS) Vancouver hosted a digital roundtable titled *National Security and Parliamentary Review Four Years On: Is it Working?* The presentation was conducted by the Honourable David J. McGuinty, founding chair of the National Security and Intelligence Committee of Parliamentarians (NSICOP). The presentation was followed by a question and answer period with questions from the audience and CASIS Vancouver executives, which were directed to both Mr. McGuinty and Lisa Marie Inman, Executive Director, Secretariat of NSICOP.

NATURE OF DISCUSSION

Presentation

NSICOP was founded in 2017 by the Honourable David J. McGuinty to fill a gap in the national security review framework. This was achieved, in part, by ensuring its members had the appropriate clearances to conduct reviews of security and intelligence organizations, without being constrained by the mandates of individual agencies. Mr. McGuinty began the presentation by providing an overview of the committee's composition, mandate, and functions, emphasizing that the committee operates at arm's length from the government, and they are bound by their own legislation, as opposed to the Parliament Act. The majority of the discussion focused on NSICOP's work to date, including the outcome of three annual reports, two special reports, and two new reviews on the intelligence activities of Global Affairs Canada and another on cyber defence. The presentation concluded with a discussion on what the future holds for NSICOP and the challenges they face in their upcoming 5-year review.

Question and Answer Period

During the question and answer period, both Mr. McGuinty and Ms. Inman discussed the inspiration behind the committee, the collaboration efforts with other countries and differences between the Canadian and U.S. review process. The discussion then turned to the challenges and benefits of implementing a whole of Canada approach.

BACKGROUND

Presentation

NSICOP was established in 2017 to fill a gap in the national security review framework. Their authority is not guided by the Parliamentary Act; rather, the committee is bound by its own statute and follows a mandate to objectively review the regulatory, legislative, policy, administrative, and financial framework for national security and intelligence. NSICOP is made up of parliamentarians from both houses; however, it operates at arm's length from both the parliament and the government. This puts NSICOP in a unique position that allows its members to investigate a range of issues without being constrained by the mandate of individual organizations or the narrow focus of their review bodies.

In terms of how NSICOP functions, the committee is unanimous and non-partisan. Reports are finalized through consensus after comprehensive discussion and painstaking deliberations. Although members of the committee have their differences at times, they eventually come to agreement on all assessments and recommendations. NSICOP's reports are informed by the documents that departments and agencies provide, as well as meetings with officials, outside experts and members of society. Once completed, reports are provided directly to the Prime Minister and tabled in both Houses of Parliament.

Since 2017, NSICOP has conducted seven reviews, which have formed three annual reports and two special reports. Their first report was issued in 2018 and provided a functional overview of the security and intelligence community, including the most significant national security threats. The committee reviewed the government's process for setting intelligence priorities, as well as the security and intelligence activities of the Department of National Defense (DND) and Canadian Armed Forces (CAF). Their recommendations were provided to the

Prime Minister who issued mandate letters on policy preparedness to the Minister of National Defence and the Minister of Public Safety.

NSICOP's first special report addressed allegations of foreign interference associated with the Prime Minister's official visit to India in 2018. Another special report presented by the committee in 2019 focused on the collection, use, retention, and dissemination of information collected on Canadians in the context of the DND and CAF intelligence activities. For their 2019 annual report, the committee reviewed diversity and inclusion in the Canadian security and intelligence community, as well as the government's response to the serious challenge of foreign interference, and the security and intelligence activities of the Canadian Border Services Agency.

In their most recent report, in 2020, NSICOP decided not to conduct a full review because of the constraints placed on them by the pandemic. Instead, they provided the Prime Minister with a consolidated overview of national security threats to Canada, in comparison to the results of the 2018 annual report. This report also considered an assessment of critical election incident public protocol, which outlines a protocol to inform Canadians of incidents of foreign interference that threaten the integrity of federal elections.

Currently, NSICOP is conducting two new reviews, the first is on the security and intelligence activities of Global Affairs Canada, and the second review is on cyber defence. NSICOP has a third review on the horizon that has not yet started, which will examine the federal mandate of the Royal Canadian Mounted Police.

NSICOP will be facing a 5-year review in 2022, in which their operations will be reviewed. NSICOP has faced some challenges that will be addressed in their upcoming review, including the difficulties with measuring the impact of their work and whether their access to information is sufficient. With regard to measuring the impact of their work, NSICOP does not require the government to respond to their reports, nor do they have the authority to seek information about how or when their recommendations have been implemented. This makes it difficult to track their progress. With regard to their access to information, the NSICOP does not have authority to impose deadlines or enforce compliance and, therefore, obtaining appropriate information for their reviews might be difficult.

Overall, there is great value in reviewing issues of importance to Canadians' security, rights, and freedoms, as well as engaging with Canadians fully and frankly on how those issues are being addressed. Review is a fundamental

component of public trust and transparency is one of the key tools in combating mis- and disinformation.

Question and Answer Period

The question and answer period began with a question regarding the inspiration behind NSICOP and why such a committee was not established earlier. Mr. McGuinty disclosed that there had been numerous attempts through private members' motions over the years to create such a committee; however, all such attempts failed. In 2010, it was realized the importance of having a group of parliamentarians, all with high-level security clearance, to effectively review national security issues. This led Mr. McGuinty and Minister Goodale to observe the processes of their counterparts in other countries, which led to the creation of NSICOP.

There is a substantial amount of collaboration between NSICOP and their counterparts in other countries, particularly Britain, whose design had the most influence on the Canadian model. They not only collaborate with the Five Eyes, but also with several other bodies with a similar structure to NSICOP around the world. The committee has already met with counterparts in Australia and have plans to meet with their counterparts in the U.S. in short order.

There are some considerable differences between the Canadian and U.S. review process. NSICOP is the sole security and intelligence review committee in Canada and is made up of members from the House of Commons and the Senate. Whereas the U.S. has separate intelligence committees in the House of Representatives and the Senate. In contrast to the U.S. review process, NSICOP has the luxury of taking a retrospective look at the security and intelligence activities of various organizations over a longer period of time. The U.S. process, on the other hand, involves immediate oversight to pressing security concerns.

There is some criticism that Canada lacks a "grand strategy", which may be accurate in some respects. NSICOP has urged the government to take a step back and look at the big picture, whether it be with diversity and inclusion across the security and intelligence community or taking a holistic look at foreign interference. That being said, there have been many exercises that have cut across various agencies and threat areas in an effort to take a more "whole-of-nation" approach. When NSICOP completes their upcoming reviews, they will have deliberately looked at the interactions of all organizations, as well as the

cooperation, or lack of cooperation, among agencies. It is, however, an ongoing process.

With respect to a collaborative approach across provinces, there is a roadblock in that many members on the front lines, such as municipal or provincial police officers, do not have security clearance, so they are blind to larger issues like foreign interference. This is a systemic issue that blocks the flow of information and prevents progress.

KEY POINTS OF DISCUSSION

Presentation

- The unique structure and mandate of NSICOP fills an important gap in the review framework surrounding national security and intelligence matters.
- NSICOP operates at arm's length from the government and is bound by its own legislation, which allows NSICOP's members to investigate a range of issues without being constrained by the mandate of individual organizations or the narrow focus of their review bodies.
- Since their creation in 2017, NSICOP has conducted seven reviews which have formed three annual reports and two special reports that are provided directly to the Prime Minister and tabled in both Houses of Parliament.
- NSICOP has faced some challenges over the past several years which can make it difficult to measure the impact of their work. NSICOP does not have authority to seek out information about how or when their recommendations are being implemented and they do not have authority to enforce compliance for requests for information.
- There is great value in reviewing issues of importance to Canadians' security, rights and freedoms, as well as engaging with Canadians fully and frankly on how those issues are being addressed.
- Review is a fundamental component of public trust and transparency is one of the key tools in combating mis- and disinformation.

Question and Answer Period

- Having a group of parliamentarians, all with equal high-level security clearance, is an important feature of the review process. This realization led to the creation of NSICOP.

- There is a substantial amount of cooperation between NSICOP and their counterparts in other countries, particularly Britain and the Five Eyes, but others as well.
- Canada’s review process involves a retrospective examination of the security and intelligence activities of various groups, in contrast to the U.S. process which involves immediate oversight to pressing security concerns.
- NSICOP has advocated for a more “whole-of-nation” approach in their reviews by examining the interactions and cooperation between various organizations; although, it is an ongoing process.
- The lack of security clearance among front line policing agencies across the provinces is a systemic issue that blocks the flow of information and prevents progress.



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Published by the Journal of Intelligence, Conflict, and Warfare and Simon Fraser University

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