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New security watchdog needed: Integration is key

By REG WHITAKER

Security and intelligence problems keep popping onto the national agenda, even though very few of us want to see them there. Over the past several years, Ottawa has set up three special public inquiries into national security issues, and at least two other issues have raised calls for more inquiries.

First there was the inquiry under Justice Dennis O'Connor into the complicity of Canadian officials in the affair of Maher Arar, the Canadian victim of the American "extraordinary rendition" program who was sent to Syria, where he was subjected to a year of torture. A spin-off of the Arar commission was an inquiry under Justice Frank Iacobucci into the role of Canadian officials in relation to three other Canadians held and tortured in Syria and Egypt. Finally, there is the Air India commission under Justice John Major that will report this fall on the 1985 terrorist bombing that took 331 lives, most of them Canadian.

The affair of Aboufian Abdelrazik, the Canadian detained and tortured in Sudan, who remained in limbo at the Canadian Embassy in Khartoum until the Federal Court ordered his return to Canada, has raised concerns over complicity on the part of Canadian officials and prompted calls for another inquiry.

The case of Omar Khadr, the Canadian held at the now notorious U.S. facility for terrorist suspects at Guantanamo, has already produced one report concerning the possible complicity of Canadian officials in the violation of Khadr's constitutional rights, as well as a series of court orders to the Canadian government to ask the U.S. for his return to Canada.

What is wrong with this picture? Almost everything. It is bad enough that such disturbing issues keep plaguing our security and intelligence community. Equally troublesome is that there is no effective and respected process in place to ensure accountability to Parliament and the public. Continually calling new inquiries is not good public policy. Each such inquiry is a one-off, expensive and time-consuming, and the expertise assembled for each is dispersed at the end, while the next inquiry has to start from Square 1.

Ongoing accountability mechanisms form a poor patchwork, covering only parts of the process, able to report only on their own narrow institutional stovepipes. The report on Omar Khadr, for example, looks only at CSIS, even though the Canadian policy on Khadr's situation was an all-government position, especially involving Foreign Affairs, whose intelligence activities are not subject to any ongoing scrutiny. The same can be said for the Abdelrazik case.

The fact that a public inquiry into the Air India tragedy is taking place a quarter of a century after the bombing is itself a stinging rebuke to the inadequacy of accountability mechanisms in place at the time.

Over the years, each move to extend accountability has simply extended the patchwork, with

highly uneven results. CSIS receives relatively good scrutiny. The RCMP, on the other hand, is inadequately scrutinized for both its national security and its law enforcement activities, as the present and past chairs of the RCMP Public Complaints Commission have insisted publicly. Yet as a result of the Arar report, the commissioner of the RCMP was forced to resign.

It is time to institute an effective, ongoing accountability process for the entire security and intelligence community, one that will remain in place ready to investigate and report on all issues that come up, without having to call for special, one-off inquiries. The government has promised to do just this, but action has not followed. Justice O'Connor made wide-ranging policy recommendations in the Arar report, yet almost three years have passed with no visible response.

O'Connor recognized that the practice of security intelligence in the age of global terrorism has changed. Where stand-alone agencies once conducted their own operations on their own turf, today integration is the key: integration across agencies, and across government jurisdictions. O'Connor pointed out that if accountability is to be effective, it too must be integrated. He proposed a set of institutional and legal mechanisms to achieve this. These should be at the heart of any reform package.

Both present and past governments have also promised to enhance the role of Parliament, and this too is a key reform. Accountability must not only apply to bureaucrats, but to ministers and governments. Only Parliament can hold ministers responsible, and can scrutinize not only the implementation of policy, but government policy itself. A stronger parliamentary national security committee with unfettered access to information (and the equivalent obligation to maintain secrets) could work in co-operation with beefed-up and effective integrated review mechanisms, perhaps tasking review bodies to provide the research required for the parliamentarians to act.

In bringing about reform, it is also wise not to overreact and burden those charged with protecting our security with red tape. Ongoing operations should not be subject to interference from outside. On the other hand, external scrutiny that respects the genuine need for secrecy works not only to protect the rights of Canadians, but also encourages national security agencies to operate more effectively. CSIS readily acknowledges that its watchdog body has made it a better agency. The lack of effective outside scrutiny has left the RCMP with a very large legitimacy problem with the public.

Better accountability in national security is in everyone's interest. This ball is now in the government's court.

Reg Whitaker is co-author with Stuart Farson of the Institute for Research on Public Policy study, *Accountability in and for National Security*.

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