

# CSIS won't open full Tommy Douglas file

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The Canadian Press (CBC News)



The RCMP's file on Tommy Douglas, shown here after re-election in November 1965, contains articles noting Douglas's concern about rumours of RCMP surveillance of Canadians. (Canadian Press)

In an affidavit filed in Federal Court, the Canadian Security Intelligence Service argues that full disclosure of the file on Douglas could endanger the lives of confidential informants and jeopardize the agency's ability to conduct secret surveillance.

Indeed, CSIS suggests its very *raison d'être* would be imperilled by releasing the information compiled on the one-time Saskatchewan premier and federal NDP leader, widely revered as the father of medicare.

"Secrecy is intrinsic to security intelligence matters," Nicole Jalbert, the agency's access to information and privacy co-ordinator, says in the affidavit filed late last month.

"The requirement for secrecy with respect to past and current activities of a security intelligence agency is essential; the origin of information, its extent and the methods by which it was obtained must remain a secret."

## **Fear of a legal precedent**

In an apparent reference to the precedent CSIS fears might be set if the Douglas files were released, Jalbert adds: "The routine, full disclosure of security intelligence information would, in certain circumstances, prevent or severely hamper the service's ability to discharge its statutory mandate."

The lawyer for The Canadian Press reporter who initiated the battle over disclosure of the Douglas dossier said CSIS's argument would essentially mean all intelligence files must remain secret in perpetuity.

"The suggestion that anything that intelligence agencies do must be secret for all time I think is contrary to basic democratic principles," Paul Champ said in an interview.

He said it's ironic that former Soviet Bloc countries have opened up their old intelligence files to public scrutiny while "the security intelligence file on Tommy Douglas, one of Canada's most loved political icons, remains closed."

"It's pretty unbelievable."

Champ last year filed affidavits from Wesley Wark, a renowned security intelligence expert, and historian Craig Heron, both of whom maintained it's absurd to keep the Douglas file secret so many years later.

The court last week rejected a federal government bid to strike those affidavits on the grounds that they contain "pure conjecture, speculation and legal opinion."

### **File fight started in 2005**

The battle over Douglas' intelligence file began in November 2005, when reporter Jim Bronskill made an Access to Information Act request for the RCMP dossier on the fabled prairie preacher-turned-politician.

Some material in the file, now in the possession of Library and Archives Canada, was eventually released.

It showed that spies with the now defunct RCMP Security Service had shadowed Douglas for more than three decades, attending his speeches, analyzing his writings and eavesdropping on private conversations. His links to the peace movement and Communist Party members were of particular interest.

But the government refused to release big chunks of Douglas' file — some of it dating back to the 1930s — because of national security concerns. Its decision was upheld by the information commissioner of Canada.

Bronskill took the minister of Canadian Heritage, who oversees the archives, to court in a bid to force disclosure.

CSIS, which replaced the RCMP Security Service and was consulted on Bronskill's initial request for the Douglas dossier, maintains it's irrelevant that the file is decades-old and has long been closed.

"The passage of time and the age of information cannot be used to conclude that its release will not cause damage," Jalbert says in her affidavit.

"Sources may still be active, despite the passage of time. Subjects of investigation would learn much about the scope of the information available about them and about service methods of operation.

### **Release could identify employees: CSIS**

"Some subjects of investigation are entities that remain of interest for many decades. In addition, many investigative techniques that were used in the (1960s) are still relevant today."

Jalbert argues that release of the information could identify CSIS's employees, procedures and administrative methodologies, including how the agency manages investigations.

Moreover, she says it could reveal the identity of confidential informants, which "would send a clear message to current and future human sources that the service is not able to guarantee the anonymity upon which their safety depends."

Champ agreed CSIS has a duty to protect the identity of any informant who might still be alive. But beyond that, he said there's no reason to withhold information in the Douglas dossier.

In his earlier affidavit, Wark said the fact that the original RCMP file on Douglas was transferred uncensored to the national archives suggests the government recognized the information had "historical value" but "no ongoing operational utility."

"The notion that once sensitive security and intelligence records remain sensitive for eternity is a patent absurdity," Wark said.

"The threat environment changes, institutions change, policies change, security and intelligence methods change, legal standards change and so on."

Douglas's daughter, actress Shirley Douglas, has also filed an affidavit supporting full disclosure.