



February 16, 2009

Director Jim Judd
Canadian Security Intelligence Service
P.O. Box 9732 Stn T
Ottawa, ON
K1G 4G4

VIA FAX: 613-231-0612

Dear Director Judd:

RE: Agents provocateur and the 2010 Olympic Games security plan

I am writing to you in your capacity as the Director of the Canadian Security Intelligence Service (CSIS) on behalf of the B.C. Civil Liberties Association, Canada's oldest and most active civil liberties advocacy organization.

Our organization has had notification from a number of anti-Olympic related organizations that they have significant concerns about the presence and activities of undercover agents of various law enforcement and security organizations at political meetings and in organized protests related to the Olympics. We are writing to you today to ask for some commitments from CSIS in terms of the use of these tactics.

In August of 2007, Canada hosted a North American leaders' summit at Montebello, Quebec. During this meeting, over 1,000 protesters gathered to raise concerns about various issues including the environment, trade, and human rights.

In an incident that has since become notorious, a group of three individuals dressed in black, wearing bandanas, one of whom was holding a rock, were captured on video and identified as members of the Sûreté du Québec by protesters. The Sûreté du Québec later acknowledged that the three individuals were, indeed, police officers undercover as part of the protest security operation.¹

¹ "Quebec Police admit they went undercover at Montebello protest", CBC Online, August 23, 2007, at <http://www.cbc.ca/canada/story/2007/08/23/police-montebello.html> last accessed February 16, 2009.

As CSIS is aware, the *Canadian Security and Intelligence Service Act* ("CSIS Act") grants CSIS agents the same protections as peace officers under Canadian law. The Criminal Code permits peace officers, in very limited circumstances, to break the law through acts or omissions as required for investigative purposes.² However, this exemption has clear limits, prohibiting peace officers absolutely from "the intentional or criminally negligent causing of death or bodily harm to another person." Given the broad legal meaning of the word "causing", this prohibition also clearly prevents peace officers from inciting or instructing another individual to cause bodily harm or death to any third parties.

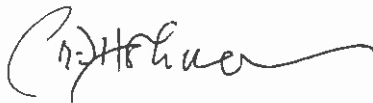
We are writing to ask for CSIS's assurance that you will make the following commitments to the public with respect to intelligence gathering around the 2010 Olympic Games. These commitments are based on the law restricting conduct during undercover investigations, and grounded in the *Charter of Rights and Freedoms*, in particular the rights of freedom of expression and assembly. In particular, we ask that you commit that:

1. No undercover CSIS agent will participate in, facilitate or encourage acts that could cause bodily harm or death to any other person as part of an undercover investigation;
2. No undercover CSIS agent will infiltrate a civil society or protest organization or group, unless the group is engaging or threatening to engage in either physical harm to another person or significant property damage, and CSIS has sufficient evidence of such conduct that rises to the level and quality of evidence required to ground a warrant as described in the *CSIS Act*; and,
3. No undercover CSIS agent will seek to influence the political direction, policy positions or internal discussions of any organizations infiltrated by security forces.

In short, these commitments seek to prevent CSIS from using *agents provocateur* to discredit a protest movement, group or organization. While it may be more convenient for an intelligence agency to infiltrate a given protest group in order to collect intelligence; convenience is not one of the cherished or protected freedoms of our democratic society.

We would hope that these three commitments would be the policy of CSIS even independent of our contacting you; however, in light of the activities of the Sûreté du Québec in Montebello, we would appreciate CSIS making its commitments to democracy and the rule of law explicit with respect to the activities of *agents provocateur* and undercover agents.

Yours truly,



Rob Holmes
President

² *Criminal Code of Canada*, s.25.1.